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THE

SOLICITORS' JOURNAL

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CURRENT TOPICS

The Charities Bill

A GENERAL welcome has greeted the publication of the Charities Bill by the Government, and rightly so. The Bill implements many of the recommendations of the Nathan Committee which reported in 1952. The Charity Commissioners are to have a new constitution, set out in Sched. I to the Bill, and will assist and advise charities but not administer them. They will enjoy new powers to require accounts to be audited and permitting the removal or suspension of trustees in cases of misconduct or mismanagement, and will maintain a register of charities. Local authorities, too, will be permitted to maintain public indexes of local charities and, with the trustees' consent, to review their working. Circumstances in which the objects of a charitable trust may be changed under the cy-près doctrine are specified and a statutory foundation is provided for co-operation between charity trustees and the statutory welfare services. In future, schemes for enabling charities to widen their investment powers and to join in investing their property in common investment funds will be permitted and "common good" trusts may be set up. Clause 25 replaces existing provisions empowering the Commissioners to order taxation of a solicitor's bill of costs. The law of mortmain is to be abolished. This Bill, of forty-eight clauses and seven Schedules, is a formidable piece of work. It is clear that its addition to the Statute Book will be of great value and we wish the Lords and Commons well over their deliberations thereon.

Royal Surname

EARLIER this week it was announced that THE QUEEN has decided that her descendants, with certain exceptions, will bear the surname "Mountbatten-Windsor." The exceptions consist of Her Majesty's children, those entitled to the style "Royal Highness" and the title of Prince and Princess, and the descendants of females who marry. This declaration of 8th February, 1960, thus modifies an earlier declaration of 9th April, 1952, that Her Majesty's descendants, other than female descendants who marry, should bear the name of Windsor. It will be many years before the effects of the declaration are apparent because it will not apply until the birth of great-grandchildren of The Queen. The declaration does not affect the title of the dynasty, which remains the House and Family of Windsor.

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Legal Tender

ALL bank notes issued by the Bank of England are legal tender in England and Wales for the payment of any amount, and all such notes of denominations of less than £5 are legal tender in Scotland and Northern Ireland (s. 1 (2), (6) of the Currency and Bank Notes Act, 1954). Under the Coinage Act, 1870, s. 4, a tender of payment in money, if made by coin, is legal tender in the case of gold coins for a payment of any amount, in the case of silver coins for a payment of an amount not exceeding forty shillings and in the case of bronze coins for a payment of an amount not exceeding one shilling. Cupro-nickel coins are legal tender for a payment of an amount not exceeding forty shillings (Coinage Act, 1946). In a recent case at Mold, Flintshire, a butcher was fined £3 for driving without due care and attention and ordered to pay £5 10s. costs. Within a few minutes of this conviction one of his assistants called at the court with a bag containing 1,200 pennies but half an hour after being convicted the butcher himself was again before the court. The purpose of this second appearance was not to be complimented by the magistrates upon the prompt payment of the fine and costs but to be publicly reprimanded for attempting to pay part of it otherwise than in legal tender. Indeed, he was told that his action seemed to show "disrespect to the Bench nearing contempt of court." The butcher said that he did not know that his bag of pennies was not legal tender, but he apologised to the court.

Careless Driving

As is well known, any person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road is guilty of an offence (s. 12 (1) of the Road Traffic Act, 1930) and solicitors who deal with road traffic cases will wish to note the decision of the Divisional Court of the Queen's Bench Division in *Taylor* v. *Rogers* (1960), *The Times*, 30th January, in which the nature of this offence was considered. The defendant was driving a heavy motor lorry on a busy main road and he was following an eight-wheel lorry through a village. On leaving the village, the road, which at this point was twenty-two feet wide, curved left and there was a continuous white line round the curve. At the beginning of the curve the driver of the eight-wheel lorry made a signal by flashing his rear lights which the defendant took to mean that it was safe to overtake but, while he was in the act of passing, a car came in the opposite direction and he (the defendant) flashed his light to indicate that he was going to complete the overtaking. In the result the car mounted the verge, but no collision in fact took place. The Shropshire justices found that the defendant's action was a deliberate, calculated action, taken in full knowledge of the prevailing conditions; that he was giving his full attention to his driving and was not allowing himself to be distracted by extraneous circumstances; and that he could not be said to have been driving without due care and attention. They accordingly dismissed the information, saying that had the charge been one of driving without reasonable consideration they might have convicted. However, the Divisional Court believed that the justices had misdirected themselves and LORD PARKER, C.J., said that the sole question for the justices to ask in such a case is: "Was the defendant exercising that degree of care and attention that a reasonable and prudent driver would exercise in the circumstances?" His lordship added that the test is an objective one, and it matters not that the failure to exercise that degree of care was a deliberate act nor that it arose from an error of judgment. The effect of failing to conform to a white line was considered in *Evans* v. *Cross* [1938] 1 All E.R. 751.

Mock Auctions

ALTHOUGH the Mock Auctions Bill introduced in the last Parliament failed to reach the Statute Book, it should not be thought that those who conduct mock auctions have nothing to fear from the criminal law. Indeed, in a recent case at Bournemouth Magistrates' Court, four men were remanded on bail charged with "conspiring together and with other persons unknown to defraud by means of a mock auction with sham bidders and other artifices for the purpose of selling goods at prices grossly above their real value." This cannot be described as a novel charge because in *R.* v. *Lewis* (1869), 11 Cox 404, it was held to be indictable to conspire to defraud the public by means of a mock auction and in the course of his judgment in that case Willes, J., said that "to employ apparent puffers and bidders, at a mock auction, for the purpose of fraud, and to obtain grossly higher prices than the real value of the goods, out of people deceived into the idea of imagining that they were real bidders, necessarily made the offence an illegal act." The actions of a person conducting a mock auction have also led to a conviction for larceny. In *R.* v. *McGrath* (1869), L.R. 1 C.C.R. 205, the prisoner, while acting as auctioneer at a mock auction, knocked down a piece of cloth to one Jane Powell for 26s., well knowing that she had not bid for it. Jane Powell tried to leave the room in which the mock auction was being held, but one of the prisoner's confederates barred her way. She then in fear paid the 26s. and took away the cloth which was given to her. It was held that these facts constituted a larceny of the 26s. and Blackburn, J., thought it "would be a scandal to the law if goods could be obtained by frightening the owner, and yet this should not constitute a taking within the meaning of the definition of larceny."

West London Law Society

THE West London Law Society, being the 110th local law society and (the Worshipful Company of Solicitors apart) the first in London, was inaugurated last week. Officers elected were Mr. A. L. WATSON, president; Mr. W. H. BENTLEY, Town Clerk of Paddington, and Mr. G. FREEBOROUGH, vice-presidents; Mr. C. F. WEGG-PROSSER, secretary; and Mr. N. COLEMAN, treasurer. We congratulate them upon their taking office and wish them well. The dinner meeting was addressed by the president and secretary of The Law Society. The 101 members there present showed great enthusiasm in amending the draft rules and proposing their partners as committee members as well as in the repast. The indications are that this new society is going to be active and independent and not unduly subdued by the proximity of Chancery Lane. Some solicitors from the W.1 district of Westminster attended and it seems not unlikely that the next London law society will be formed in the City of Westminster. Meanwhile the committee of the new society must prepare its plans. *Floreat* the West London Law Society!

INVESTMENT IN UNIT TRUSTS—I

THE units or shares of unit trusts seem to be destined as the distinctive investment of the 1960's, particularly for the investor of small or moderate means who has neither the inclination nor skill to plan an investment programme and keep it under continuous review, but merely wishes to obtain a reasonable return on his money and at the same time to benefit from the expected prosperity of trade and industry reflected in an increase in share values. The practitioner will increasingly be asked to advise on investment in unit trusts, and it is therefore proposed in this article and its sequel, first, to outline how unit trusts work and the rules of law applicable to them, and then to deal with some of the matters on which clients should be advised.*

The constitution of unit trusts

Like so many other institutions, unit trusts originated in this country during the 1870's, but after the decision in *Sykes* v. *Beadon* (1879), 11 Ch.D. 170, where it was held that trusts whose membership exceeded twenty were void associations by reason of what is now the Companies Act, 1948, s. 434, all existing trusts were converted into investment trust companies, and the unit trust movement was not revived when the Court of Appeal subsequently reversed *Sykes* v. *Beadon* in *Smith* v. *Anderson* (1880), 15 Ch.D. 247. In the United States, however, the movement gained a hold and expanded rapidly after the first world war, and the unit trust was finally imported back into this country in the 1930's. The first trusts of the 1930's were fixed trusts, but as all the trusts now existing are of the more developed flexible type, they alone will be examined in this article.

A unit trust is constituted by a trust deed under which a specified portfolio of investments (predominantly ordinary shares of industrial and commercial companies) is purchased by the managers of the trust (usually a company formed by one or more firms of stockbrokers or jobbers, but often with outside interests represented on its board), and the investments are vested in a trustee (invariably a bank or insurance company) which, on the direction of the managers, issues unit trust certificates to members of the public who purchase units from the managers. Before units are issued to the public the trustee holds the investments as a bare trustee for the managers; by selling units to the public, the managers are, in effect, selling their equitable interests to them, and each unit holder becomes entitled to a fraction of the total beneficial interest. The number of units which the managers may sell and which will be represented by the original portfolio of investments is fixed by the trust deed, so that by dividing the total value of the portfolio by the permissible number of units, it is possible to calculate the value of each unit.

Two problems now arise, namely, how is the issue price of each original unit calculated, and is it possible to issue further units after the original ones, and so expand the trust?

It should be remembered that a subscriber for units is really buying from the managers a share of a portfolio of investments which will be held in trust for him and his fellow unit holders as tenants in common. Consequently he must expect to pay an appropriate fraction of the cost of purchasing all the investments in the portfolio from a jobber and of vesting them in the trustee, plus a commission, called the initial service charge, payable to the managers. The following is an over-simplified example. Let the trust fund consist of 500 shares of *A*, Ltd. (current offered price, i.e., price demanded by jobbers, 40s.), 300 shares of *B*, Ltd. (current offered price 25s.) and 200 shares of *C*, Ltd. (current offered price 30s.) The total offered price for the portfolio is £1,675; the cost of acquiring it and vesting it in the trustee would be: Stockbroker's commission, £17 3s. 9d., transfer stamp duty, £34, and settlement stamp duty on the trust deed at 5s. per cent. on the value of the portfolio, £4 5s.; this makes a total cost of £1,730 8s. 9d., to which an initial service charge of 5 per cent. is added (£86 14s. 4d.), making the value of the trust £1,817 3s. 1d. If the permissible number of original units is 2,000, the value of each unit will be $\frac{£1,817\ 3s.\ 1d.}{2,000}$ or 18s. 2·05d., which, when rounded off to the nearest higher threepence, gives an issue price of 18s. 3d.

Issue of further units

Having issued the permissible number of original units, the managers now wish to expand the trust fund and issue further units. The trust deed of a flexible trust will permit them to do this without limit, and so the trust is, to adopt an American expression, "open-ended." The securities which may be added to the trust fund are specified in the trust deed, and it is usual to make the list both varied in type and numerous, 125 being a popular number of permissible investments.

In some trusts, known as "appropriation trusts," the additional investments are purchased by the managers and vested in the trustee before the further units are issued to the public, and the managers therefore stand to gain or lose by the further investments rising or falling in price between the date when they are purchased and the later date when units are issued in respect of them. The value of the original units must, of course, not be diminished by too many further units being issued, and so in an appropriation trust the trust deed provides that investments equal in value to that of each original unit at the date of the purchase must be added to the trust fund for each further unit which is issued. In the example given above, if the value of the original investments in the trust fund is £1,750 when the additional investments are purchased, and it is desired to issue a further 1,000 units, the value of the additional investments to be added to the trust fund would be $\frac{£1,750}{2,000} \times 1,000$, or £875. The value of the original and additional investments for this purpose is usually taken to be their middle market value, that is the mid-point between the prices at which jobbers would sell or buy the investments on the date when the additional investments are purchased. When the additional investments have been vested in the trustee, the managers issue further units to the public at a price calculated in the same way as for the original units. It should be remembered that for this purpose, however, the value of the trust fund is taken at the market-offered price, i.e., the jobber's selling price, for the investments comprised in it when the further units are issued, which in the example given might be rather more than £2,625, and the usual additions for stockbroker's commission, transfer stamp duty, additional settlement duty on the trust deed and the initial service charge would have to be made.

* There is unfortunately little published literature on unit trusts. Those who desire further information than is contained in these two articles are referred to "Unit Trusts and How They Work," by C. O. Merriman (Pitman: 1959), "Investing Simplified," by E. D. L. du Cann (Newman Neame: 1959) and "The Principles of Company Law," by R. R. Pennington, chap. 29 (Butterworths: 1959).

In the other kind of trust, the "cash fund trust," the further units are issued before the additional investments are purchased, so that the trust fund, and not the managers, stands to gain or lose by a change in the value of the investments between the time when the units are issued and the later date when the investments are bought. As a safeguard, however, the managers of a cash fund trust are required to deposit sufficient cash with the trustee to purchase the additional investments before they issue the further units to the public. The issue price of the further units is equal to what would be the current issue price of the original units if there were any left to issue. In the example given above this would be one two-thousandth of the market-offered price of the original trust fund on the date when the further units are issued (which price may be more or less than £1,675) plus the usual additions calculated on that market-offered price.

Variation of investments in the trust

A modern unit trust is flexible not only because the number of units issued may be extended without limit, but also because the managers are given power by the trust deed to vary the investments comprised in the trust fund, and thus to take advantage of increased interest or dividends or capital accretions obtainable by switching. The managers cannot switch to investments outside the list of permissible investments contained in the trust deed, however, and the deed usually limits their freedom of choice further by prohibiting the investment of more than a certain percentage of the trust fund in the securities of any one company, and often also by requiring a minimum fraction of the fund to be invested in gilt-edged securities or local authorities' stocks. Within these limits managers always try to invest as widely as possible, and thus diminish the risk of the trust fund depreciating by one or more of the investments comprised in it falling in value. Sometimes the trust deed limits the number of changes of investments which can be made in any one year. The purpose of this is to prevent the fund being dissipated in meeting the expense of needlessly frequent changes, but it has the disadvantage of putting the manager in a dilemma if for some good reason it is desired to switch from several investments comprised in the fund at one time.

Board of Trade authorisation

No unit trust is required by law to be approved by the Board of Trade before it may function, but by the Prevention of Fraud (Investments) Act, 1958, s. 14, the managers cannot issue advertisements or circulars inviting the public to subscribe for units unless the trust is authorised by the Board, or the Board gives its specific consent to the advertisement or circular. All the forty or so unit trusts established in the United Kingdom have been authorised by the Board of Trade, but there are also a number of American or Canadian trusts (known transatlantically as "mutual fund trusts") whose units are obtainable through brokers, but which have not been authorised and so cannot advertise. Another advantage of authorisation, if the Government's proposals to widen the list of trustee investments are enacted into law (see Cmnd. 915 of 1959), will be that trustees will be permitted to invest up to a half of private trust funds in, *inter alia*, the units of authorised unit trusts.

Board of Trade authorisation is given only if the trust deed of the unit trust contains satisfactory provisions in respect of a variety of matters specified in the Prevention of Fraud (Investments) Act, 1958. The Board has published a detailed list of its requirements, but, even if the trust deed complies with them, the Board may still refuse authorisation if it considers that it would be contrary to the interests of investors to grant it (*Allied Investors' Trusts, Ltd.* v. *Board of Trade* [1956] Ch. 232). If authorisation is granted to a unit trust, the Board of Trade may revoke it if the provisions of the trust deed no longer meet the Board's requirements (because, for example, the Board's requirements are changed and made more stringent), or because there has been a material change of circumstances; and to enable it to investigate alleged cases of mismanagement of trusts, the Board is given powers of investigation similar to those conferred on it by the Companies Act, 1948, in the case of companies.

The mere fact that a unit trust has Board of Trade authorisation does not, of course, denote that the Board considers that its units are a desirable or safe investment. The investor must make his own decision about that, and in the next article some of the considerations which should influence his decision will be discussed.

(To be concluded) R. R. PENNINGTON.

THREE TRAVELLERS

IT is remarkable that in the week 19th to 26th November, 1959, the courts had to consider three cases relating to claims for loss or inconvenience arising from misfortunes happening to holiday-makers booking through a travel agency for a holiday abroad.

The value of the decisions is necessarily limited by the fact that in any such case the duty of the travel agency depends on the proper construction of the contract so that only in so far as the decisions relate to much used phrases in such contracts, and subject to any other special conditions governing the liability of the agency, will they afford any guidance in any other case.

The case reported on 20th November is a decision of a county court, and it is therefore proposed to consider that case last as it is, of course, not binding on any other tribunal.

Meaning of "hotel"

The other two cases are decisions of the Court of Appeal, of which the first was heard on 23rd November (*Trackman* v. *New Vistas, Ltd.* (1959), *The Times*, 24th November). It is a case of general interest in that the Court of Appeal had to consider what is meant by the word "hotel" where an agency sell a booking for a named hotel and the traveller, on arrival, is put in an annexe to the hotel. Does "Hotel Mañana" mean all the buildings managed under that designation or does it mean the hotel proper excluding such buildings as an annexe? The Court of Appeal held that it meant the hotel proper and therefore a traveller who wishes to have the convenience of the main building where the amenities are all under the same roof, so avoiding a street journey from bedroom to dining-room, may properly complain that he has not been provided with what was promised if given accommodation in an annexe. He may, moreover, seek other hotel accommodation nearby and charge the agency with the difference in cost as part of the damages flowing from the breach of contract.

Open contract by correspondence

In this case the contract had been made, first, by a telephone conversation between the plaintiff and the defendant company's

managing director, secondly, by a letter from the company setting out the itinerary proposed by the company, and, thirdly, by a letter of acceptance enclosing a cheque for £265 16s., being the cost thereof. The company's letter contained no qualification of any kind: thus, there was no condition or term that what was offered was subject to accommodation or reservations being available, and no limitation of liability.

There were other troubles of this journey: failure to give adequate notice that the plaintiff and his family would have to start their journey earlier than the time at first stated; failure to take proper steps to find the seats reserved on the train and failure to give them notice that they could not have couchettes. (The money paid for couchettes was returned by the defendants.)

In the court below the judge had found in favour of the plaintiff in regard to the troubles of the journey but against him on the complaint relating to his having been given accommodation in an annexe. The annexe was said to be in an unfinished condition and some 200 yards from the main building. The parents had their three small boys with them, the youngest being aged nine, so that this factor was material to them.

Ordinary common-sense description

Reversing the county court judge on the meaning of " hotel," the Master of the Rolls said that, as a matter of language, he could not agree that that expression covered all the buildings which were part of the property owned and conducted by the hotel. " Anybody reading the itinerary would assume that by ' Hotel Mañana ' was meant what would be, in ordinary common sense, described as an ' hotel,' as distinct from outbuildings, annexes, or private houses with accommodation available to the hotel management but separated by appreciable distances from the hotel itself. An hotel included not only the sleeping accommodation but other amenities—meals, sitting-rooms and so forth, and the services of the concierge and persons of that kind." Consequently the offer of accommodation in the annexe was not in accordance with the promise of the travel agency, and the plaintiff was entitled to claim the extra cost of accommodation at another hotel as damages in addition to his claim for inconvenience on the journey which the county court judge had already allowed.

Printed conditions on back of form

Three days later the Court of Appeal again reversed the decision of a county court judge but this time the result favoured the travel agency (*Light* v. *Inter-tours, Ltd.* (1959), *The Times*, 27th November). In this case the contract was subject to various printed conditions on the back of the form setting out the booking, of which condition (3) provided that the defendants—

> " accept no responsibility for losses or additional expense due to delays or changes in air, rail, sea, road or other services . . . weather or other causes " ;

and of which condition (4) laid down that—

> " all arrangements for transport of any kind . . . are made on the express condition that [the defendants] shall not accept responsibility or liability in respect of any loss damage injury . . . or delay occasioned by any act or default of the carriers . . . or other persons engaged in supplying transport . . ."

Lost and errant sheep

In this case there were a number of calamities which affected the journey (which was to Cervia, Italy). The night before the day of departure there was a severe rainstorm and as a result the cross-Channel rail and ship services via Folkestone were diverted to Newhaven. There had also been a blockage of the Simplon Tunnel. When the plaintiffs reached Newhaven there was a great crowd of people, and because of the crowd sixty-six only of the party of seventy-eight boarded the first steamer; the others, including the plaintiffs, had to go on the second steamer, although they were near their courier when they got to the gangway of the first steamer: they were debarred from boarding by an official of British Railways. The plaintiffs had no tickets, except a *contremarque*, and no guide.

The first ship should have been met by continental couriers, but owing to the Simplon blockage the couriers did not meet the ship. Consequently, the English courier, Mr. Day, had to take the sixty-six to Paris. They arrived at the Gare St. Lazaire, and Mr. Day took them to the Gare de Lyons and went to the Gare St. Lazaire to search for the missing members; but, although some were found, the plaintiffs had got on a different train so that instead of arriving at the Gare St. Lazaire they arrived at the Gare du Nord.

The plaintiffs managed as best they could and eventually arrived under their own steam at Cervia, hungry, distressed and blistered.

What was the breach of contract? The plaintiffs alleged that it was a term of the contract that the defendants would provide couriers who would diligently and carefully escort the plaintiffs during the whole of the journey and that there had been a breach of that term. The document setting out the conditions of the contract contained no obligation to provide couriers, but the plaintiffs alleged that such a term was to be implied from statements and advertisements put out by the defendants in their brochure. But the court took the view that, although the brochure did suggest that couriers would be provided, it was not incorporated into the contract so as to become part of the bargain.

Moreover, the court took the view that there was no breach because the trouble was caused either by the weather or by the official of British Railways who prevented the plaintiffs from boarding the first ship. That case was clearly decided on its own facts and in the light of a clause giving wide protection to the travel agency.

Honeymoon couple

In the county court decision, heard at Westminster on 19th November, the defendants, a travel agency, were exonerated from blame for the circumstance that the plaintiffs, who had booked a room at an hotel in Barcelona, found on arrival that there was no room available in the hotel. They were offered a room in an annexe, but the plaintiffs alleged that it was dirty and infested with insects, and had no bed in it. They spent the night on an airport bench and flew home the next day.

In this case the report does not indicate how the contract was formed or what were the terms of it. His honour Judge Herbert said that the duty of a travel agency was only to book a room and anything else to do with a holiday; and that any higher duty, particularly any duty to ensure that a room was in fact available, would make the business of a travel agency a highly hazardous occupation. He was satisfied that the agency had booked a room and that the hotel had let it to someone else. The agency had made a block booking for the season giving them rights over certain rooms and in his honour's view what the plaintiff got was the advantage of the agency's right and no more. He also

formed the view that the plaintiffs lost their heads and aggravated the position, implying that had they made an effort they would have got accommodation (*Cook* v. *Spanish Holiday Tours* (1959), 103 SOL. J. 873: note the newspaper reports that after the hearing the manager of the agency offered the plaintiffs a free fortnight's holiday abroad next year, which they accepted).

What is implied duty of agency?

This last decision, being only at county court level, is no authority for its conclusion.* In fact it raises the most interesting point of the three cases. The reason for holding that the agency were not liable for the wrongful act of the hotel was, according to the report, that it would make a travel agency a highly hazardous occupation. Yet, of the two, the plaintiffs or the agency, it is surely the latter who are more able to bring the foreign hotel to book. The decision makes foreign holidays through agencies a highly hazardous pastime. An agency usually have staff who visit the foreign country and they have, or may acquire, the right to withdraw future support from an hotel that fails to live up to its promises. Consequently, if this case was on an open contract one would question whether the basis of the decision is sound. We do not know whether in *Trackman* v. *New Vistas, Ltd.*, the hotel was responsible for providing a room in an annexe or not, but in any event the Court of Appeal did not take this point if the report is complete. Consequently, it looks as though the Court of Appeal's view is that an agency are responsible for seeing that a holiday-maker gets the kind of accommodation promised except where the express terms of the contract exclude such liability.

L. W. M.

* This decision was in fact overruled by the Court of Appeal on 5th February. A report of that court's decision will be published in due course.—ED.

AN AUSTRALIAN MATRIMONIAL HOME

UNDER s. 7 of the Marriage (Property) Act, 1956, a statute of the State of Victoria, in any question between husband and wife as to the title to or possession of property, either the husband or the wife or any person on whom conflicting claims are made by the husband and wife may apply by summons or otherwise in a summary way to any judge of the Supreme Court, who may make such order with respect to the property in dispute (including any order for the sale of the property and the division of the proceeds of sale, or for the partition or division of the property) as he thinks fit. *Popiw* v. *Popiw* [1959] V.L.R. 197, a recent application under this statutory provision, which is in similar terms to s. 17 of the Married Women's Property Act, 1882, gave rise to a consideration of some interesting and important points on the law of contract.

An oral promise

A wife left her husband and went to live with her parents. The husband orally promised his wife that if she would return and live with him he would transfer the title to the matrimonial home into their joint names. The wife returned to the matrimonial home, but they quarrelled after about three or four weeks and she again left her husband. The wife issued a summons against her husband under s. 7 of the Marriage (Property) Act, 1956, seeking a determination of the question whether she was entitled at law or in equity to any and what interest in the matrimonial home and she also sought an order for the sale of the property and division of the proceeds, or alternatively for partition. The husband filed an affidavit in opposition to this application in which he swore: "[My wife] told me that she would only return to me if I promised to transfer the house into both our names and in order to persuade her to return to me I took her to my solicitor and instructed him to transfer the property into both our names. I did this in the hope that [my wife] and I would make a success of our marriage." At the hearing of the application, counsel for the wife contended that there was a contract between the parties of which she was entitled to specific performance and that in the circumstances she was entitled in equity to an equal undivided interest in the property. For the husband it was objected, first, that the promise admittedly made by him as to the transfer of the matrimonial home into joint names did not impose on him any contractual obligation because it was not so intended by the parties and in any event it was not supported by a valid consideration and furthermore was uncertain in its terms. Secondly, the husband argued that even if a valid contract was constituted it was unenforceable because there was no note or memorandum thereof in writing sufficient to satisfy the Statute of Frauds, as enacted in s. 128 of the Instruments Act, 1928.

Balfour v. *Balfour* distinguished

Hudson, J., could not accept the submission that what took place between the parties did not constitute a valid contract and he distinguished the decision of the Court of Appeal in *Balfour* v. *Balfour* [1919] 2 K.B. 571. In that case a husband, who was about to go abroad, promised to pay his wife £30 per month in consideration of her agreeing to support herself without calling on him for any further maintenance. It was held that the husband was not bound by his promise as it was an ordinary domestic arrangement which was not intended to create legal relations. In *Popiw* v. *Popiw*, Hudson, J., found that the agreements and arrangements to which *Balfour* v. *Balfour*, *supra*, applied were those made in the ordinary course of the matrimonial relationship. However, in the case with which he was then confronted, the husband's promise was "given after the relationship had broken down and was made in an effort to restore it and related to a matter that had been one of the causes of dissension." Any doubt which his lordship might otherwise have had that the parties intended to affect their legal relationship was removed by the fact of their visit to the husband's solicitor to give him instructions to take the steps necessary to give effect to the husband's promise.

Of course, this is not the first occasion on which an agreement between a husband and wife has been held to have concluded a valid contract. In *McGregor* v. *McGregor* (1888), 21 Q.B.D. 424, a husband and wife took out cross-summonses against each other for assault but agreed to withdraw them and live apart if the husband, on his part, would promise to pay the wife maintenance of £1 per week. The court decided that the wife's action for arrears of maintenance should succeed as the fact that the agreement was between a husband and wife was not in itself sufficient to make it unenforceable and this was a case where the parties had intended to affect their legal relations. It is interesting to note that here, as in *Popiw* v.

Popiw, supra, the marriage had "broken down" before the promise was made.

Sufficiency of consideration

In *Popiw* v. *Popiw, supra*, the husband also contended that there was no valid agreement between the parties because the act of the wife in returning to cohabitation with him was not a sufficient consideration to support his promise as the wife was already under a duty to live with him. In view of this duty, the husband maintained that it could not be said that by the act of returning to her husband the wife had suffered any detriment or that he had gained any advantage in exchange for his promise. It is clear that it is the duty of a wife to reside and cohabit with her husband (see, e.g., *Wilkinson* v. *Wilkinson* (1871), L.R. 12 Eq. 604); it has always been said that neither the promise to do a thing nor the actual doing of it will be a good consideration if it is a thing which a person is already bound to do either by the general law or by a subsisting contract with the other party (see, e.g., Pollock on Contracts, 13th ed., p. 146). This principle may be illustrated and supported by the celebrated case of *Stilk* v. *Myrick* (1809), 2 Camp. 317, where, in the course of a voyage, two seamen deserted and the captain, having tried in vain to replace them, entered into an agreement with the rest of the crew whereby, if they completed the voyage, they would have divided equally amongst them the wages of the deserters, in addition to their own wages. The court decided that the captain's promise was not binding. By their original contract the crew were under a duty to do all that they could to complete the voyage and, for this reason, there was no consideration for the captain's promise.

However, in *Popiw* v. *Popiw, supra*, Hudson, J., thought that this view of the law was clearly rejected by the Court of Appeal in *Ward* v. *Byham* [1956] 2 All E.R. 318. After the unmarried parents of a child had separated, the mother became housekeeper to a man who was prepared to let the child live with them. The mother wrote to ask the father to let her have the child and to pay her the £1 a week which at that time he was paying to maintain it. The father replied: "I am prepared to let you have [the child] and pay you up to £1 a week allowance for her providing you can prove that she will be well looked after and happy and also that she is allowed to decide for herself whether or not she wishes to come and live with you." The mother received the £1 a week for seven months, but when she married the man for whom she had acted as housekeeper the father stopped making the payments. The court decided that, notwithstanding the mother's statutory duty to maintain the child, the mother's looking after the child in accordance with the agreement with the father was sufficient consideration for his promise to pay, and the father was liable to make the payments under the agreement. Morris and Parker, L.JJ., arrived at this conclusion because the mother had promised to do more than she was obliged to do by statute—for example, she had undertaken that the child should be happy—but Denning, L.J., approached the matter on the footing that the mother was only doing that which she was already legally bound to do and held, nevertheless, that there was a consideration present to support the father's promise. His lordship said: "I have always thought that a promise to perform an existing duty, or the performance of it, should be regarded as good consideration, because it is a benefit to the person to whom it is given."

Departure from existing principle?

Denning, L.J. (as he then was), reiterated this view in *Williams* v. *Williams* [1957] 1 W.L.R. 148. A wife deserted her husband and he entered into an agreement by which he promised to pay her 30s. per week if she would maintain herself and undertake not to pledge his credit. When he fell into arrear with those payments, the husband was sued by the wife and he pleaded that there was no consideration for the agreement as a wife in desertion is bound to maintain herself and is not entitled to pledge her husband's credit. While the other members of the Court of Appeal (Hodson and Morris, L.JJ.) agreed with Denning, L.J., that the husband was bound by his promise because it was found that the agreement was of some benefit to him, Denning, L.J., also said: "Now I agree that, in promising to maintain herself while she was in desertion, the wife was only promising to do that which she was already bound to do. Nevertheless, a promise to perform an existing duty is, I think, sufficient consideration to support a promise, so long as there is nothing in the transaction which is contrary to the public interest."

With respect, it is submitted that the judgments of Denning, L.J., in *Ward* v. *Byham, supra*, and *Williams* v. *Williams, supra*, cannot be regarded as overruling the principle applied in *Stilk* v. *Myrick, supra*, but Hudson, J., did not share this view. In *Popiw* v. *Popiw, supra*, he held that in in the face of *Ward* v. *Byham, supra* (he referred only to the judgment of Denning, L.J., in that case and did not mention *Williams* v. *Williams, supra*), the husband's contention that there was no consideration to support his promise was untenable. However, he added that, even had he believed that it remained true to say that a promise to do a thing which a person is already legally bound to do cannot be a good consideration, he would have held that this rule had no application to the facts of the case which was then before him as there was no remedy open to the husband to compel the performance by his wife of her duty to cohabit with him. His lordship said: "From a practical point of view, therefore, what the [husband] was to get in exchange for his promise was something which must be regarded as far more advantageous to him than the right of cohabiting with his wife which he had no means of enforcing and the [wife] in returning was submitting to a detriment in placing herself in a position which she could not have been compelled to occupy. On any view therefore I think there was good consideration for the [husband's] promise."

No uncertainty of terms

Hudson, J., could not accept the husband's contention that the agreement was uncertain as to the obligations undertaken by the parties, and he held, therefore, that there was a valid contract between them. However, there remained the question as to whether the husband's promise was enforceable in the present proceedings. Section 128 of the Instruments Act, 1928 (now s. 126 of the Instruments Act, 1958), provided that "no action shall be brought . . . whereby to charge the defendant . . . upon any contract of sale of lands tenements or hereditaments or any interest in or concerning them . . . unless the agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith or some other person thereunto by him lawfully authorised." It will be remembered that the husband's promise was made by word of mouth, but that he filed an affidavit which contained an admission that he had instructed his solicitor "to transfer the property into both our names." Did this admission satisfy the requirements of s. 128 of the 1928 Act? His lordship answered this question in the affirmative, but the husband further maintained that, even if his affidavit was in

a form sufficient to provide the necessary memorandum (which it was), it was not available to the wife because it was not in existence when the proceedings were commenced. Hudson, J., found that this submission was well founded.

There can be no doubt that his lordship's finding was correct. In *Lucas* v. *Dixon* (1889), 22 Q.B.D. 357, speaking with reference to the Statute of Frauds, Fry, L.J., said: "The statute requires the memorandum as evidence, but requires that evidence to be in existence at the commencement of the action which is brought to enforce the contract." In England this view was adopted in *Farr, Smith & Co.* v. *Messers, Ltd.* [1928] 1 K.B. 397, and in *Dudgeon* v. *Chie* (1955), 55 S.R. (N.S.W.) 450, the Supreme Court of New South Wales found themselves faced with the question as to whether an affidavit could be used in the same action by a defendant for the purpose of providing sufficient written evidence to satisfy the Statute of Frauds. The court held that it could not, and Street, C.J., and Herron, J., suggested that, in order that a memorandum of a contract may satisfy the statute, such memorandum must be in existence when the party relying on it becomes a party to the action. Their lordships thought that *Lucas* v. *Dixon, supra*, and *Farr, Smith & Co.* v. *Messers, Ltd., supra*, pointed to this conclusion.

Available in fresh proceedings

In the result, Hudson, J., held that, although the wife had established a contract by the husband to transfer the property in question into their joint names, the contract could not be given effect to in the present proceedings because of the lack of the necessary written evidence. However, his lordship said that in fresh proceedings the wife would be entitled to obtain an order in her favour by making use of the husband's affidavit sworn in the proceedings in which he was then giving judgment. As Fry, L.J., decided in *Lucas* v. *Dixon, supra*: "If, then, [the evidence] only comes into existence after the commencement of such an action, and the plaintiff desires to avail himself of it, he can only do so by discontinuing the action and commencing another."

D. G. C.

Practical Conveyancing

PURCHASE OF CONTROLLED HOUSES

APPARENTLY some solicitors are still in doubt as to the inquiries which should be made on behalf of a purchaser of a house which is, or may be, subject to control under the Rent Restrictions Acts. It is difficult to bear in mind all the complicated rules under those Acts during the course of a conveyancing transaction and so a few notes on the main points may be useful.

Decontrolled houses

As a result of the Rent Act, 1957, s. 11 (1), the Rent Restrictions Acts no longer apply to a dwelling-house the rateable value of which, on 7th November, 1956, exceeded £40 if the house is in the metropolitan police district or the City of London, or £30 if the house is elsewhere in England or Wales. Secondly, those Acts do not apply to a tenancy (other than one granted to a person who was previously a protected tenant) created by an agreement coming into operation on or after 6th July, 1957 (ibid., s. 11 (2)).

The consequence of these two rules is that inquiries as to the operation of the Rent Restrictions Acts need be made only on the purchase of a limited number of relatively small houses. If the purchaser will obtain vacant possession on completion he will not be concerned to know whether those Acts have previously applied. It is unlikely that he will wish to let the house, and even if he does the Acts will not fix the rent or otherwise restrict the possible terms of tenancy.

There is one unusual case, however, in which it is still advisable to make an investigation notwithstanding the fact that the rateable value is above the limits specified. If the house was decontrolled by the Rent Act, 1957, for this reason, then it is still possible that a tenant may have a limited right to remain in possession although his contractual tenancy is terminated. The tenant must normally be given at least six months' notice to quit (ibid., Sched. IV, para. 2 (2)). Even if this is done, by virtue of the Landlord and Tenant (Temporary Provisions) Act, 1958, a tenant who can show that he has not been able to obtain other accommodation, and who complies with other certain conditions, is able to claim suspension of a possession order for a period of not less than three, nor more than nine, months. Although very few houses are now affected by this provision, it may still be wise for a purchaser of a house which is subject to a tenancy to inquire whether the house was decontrolled by the Rent Act, 1957, s. 11 (1) (that is, because the rateable value exceeded the specified limit). If that is the case the vendor should be asked whether a new tenancy for at least three years was agreed; any statutory protection ceased on the grant of such a tenancy. Otherwise the vendor should be required to state what steps have been taken to obtain possession of the house, and whether any negotiations have been carried on with the tenant as to the granting of a new lease. These points will be very material if it is necessary to take proceedings for possession against the tenant, and he claims the limited protection under the Landlord and Tenant (Temporary Provisions) Act, 1958.

Duty to inquire

The decision in *Goody* v. *Baring* [1956] 1 W.L.R. 448, is cited most often as an authority determining the duty of a solicitor who is acting for both vendor and purchaser. Nevertheless, Danckwerts, J., also decided, very clearly, that a solicitor consulted by a person proposing to purchase a house affected by the Rent Restrictions Acts owes a duty to make inquiries about the recoverable rent. The Rent Act, 1957, has changed the nature of the inquiries which are necessary, but, where the Rent Restrictions Acts continue to apply, has made them no less essential.

The most important matter is the amount of the "rent limit" fixed by the Rent Act, 1957. For almost all controlled houses that limit is higher than the rent which could properly be charged prior to the 1957 Act, and no increase could lawfully be made until a proper notice of increase was served. Consequently, the main question is whether the rent has been increased up to the rent limit, and if so, whether a proper notice of increase was given.

In certain circumstances the recoverable rent may be reduced on account of disrepair. It is, therefore, advisable

to ask the vendor whether the tenant has served on his landlord a notice of defects of repair. If that has been done, then inquiry should be made as to the subsequent steps which have been taken, for instance, the giving by the landlord of an undertaking to remedy defects, or the application by the tenant to the local authority for a certificate of disrepair. Only by investigating such matters can a purchaser be certain what rent he will be entitled to claim. For example, if a certificate of disrepair has been issued by the local authority, then as respects any rental period beginning while the certificate is in force, the rent limit is calculated on the basis of one and one-third times the gross value (with certain additions) in place of the general rule doubling the gross value (Rent Act, 1957, Sched. I, para. 7 (2)). Similarly, the failure by the landlord to remedy defects within six months from the giving of an undertaking may have resulted in a reduction of the recoverable rent (ibid., para. 8 (1)).

The judgment in *Goody* v. *Baring* indicates that a purchaser's solicitor must not readily accept a vague answer as to the recoverable rent, but, if necessary, should make inquiries of the tenant. It is unlikely that many tenants of small houses can give useful information. There is, however, one further source of information which should be helpful, although in practice often it is not. The landlord of a controlled dwelling-house in respect of which the rent is paid weekly is under an obligation to supply a rent-book (Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, s. 6 (1)). The rent-book must contain information prescribed by statute, including the notice set out in Sched. II to the Rent Restrictions Regulations, 1957. If these requirements have been complied with the vendor will be able to provide the purchaser very quickly with most of the particulars he will need. For example, the form states the gross value of the premises, the statutory rent limit, the actual rent payable, and the amount of any sums included in the rent on account of rates, services, furniture or improvements carried out.

It is suggested that the importance of this statutory form, which is required to be inserted in rent-books, is often overlooked. A purchaser of a house subject to a controlled tenancy will be subject to penalties if the rent-book is not in the proper form. Therefore, it is not unreasonable for a prospective purchaser to press a vendor to give the particulars which the vendor should already have placed in the rent-book.

Even if (as often happens following sale by auction) a purchaser does not consult his solicitor until after the contract has been signed, information as to the tenancies should be obtained by means of, or by request accompanying, the requisitions on title. Facts which will enable the purchaser to determine the rent he can lawfully recover are matters as to which he can properly make inquiry. In *Goody* v. *Baring* it was said that appropriate requisitions should be made, even if the preliminary inquiries have been so complete "that it is only necessary to ask whether the answers thus received are still complete and accurate." Condition 24 of The Law Society's Conditions of Sale, 1953, provides that, as regards any controlled property, the vendor must, upon the request in writing of the purchaser or his solicitors, supply such information (if any) as may be in the vendor's possession "in relation to the recoverable rent of the property and in relation to compliance with any obligation imposed by" the Rent Acts. Subject thereto, the purchaser must assume, *inter alia*, that the rent appearing to be payable is lawfully recoverable, and that all requirements of the Acts have been performed (ibid.).

It is important to remember that, within a limit of two years, payments made by a tenant above the recoverable rent can be claimed back from the landlord to whom they were made, or can be deducted from future rent. Thus, a mistake as to the rent properly payable can have unfortunate consequences. This rule adds emphasis to the necessity for making reasonable inquiries on behalf of a purchaser of a controlled house or houses.

J. GILCHRIST SMITH.

THE HAZARDS OF FROST

"HURRAH! Blister my kidneys!" exclaimed he in delight. "It is a frost!—the dahlias are dead!" Perhaps we have lost the exuberance of the characters drawn by Robert Surtees in "Handley Cross." At any rate, the crisp pleasures of frosty weather are often tempered, for the modern householder, by fears for his pipes, and there is no doubt that the thaw following on frost may cause severe damage to house property involving structural repairs or, at the least, costly redecoration.

Legal liability for such damage, if the injured party thinks it arose from another's fault, may arise not only under the general principles of negligence, but even under covenant. It is true that the well known case of *Anderson* v. *Oppenheimer* (1880), 5 Q.B.D. 602, exemplifies an unsuccessful attempt by a tenant to claim damages for a breach of a covenant for quiet enjoyment. There the jury found also that there was no negligence on the part of anyone in the fixing and maintaining of the pipes which had burst, and the Court of Appeal upheld the decision that there was nothing to make what had occurred fall within the covenant. Cotton, L.J., assumed that the plaintiff's enjoyment was substantially interrupted but that the words of the covenant referred only to acts done after the lease had been granted and here there was no act (or omission) and, in fact, no negligence at all. But in an action against a tenant upon the implied covenant to use the premises in a tenant-like manner, the landlord succeeded in the Scottish case of *Mickel* v. *M'Coard* [1913] S.C. 896. It was held that the tenant of a villa who left it unoccupied for a month in winter without having turned off the water or emptied the cisterns or informed the landlord of her intended absence was liable for resulting frost damage. Lord Salvesen quoted with approval the old rule referred to by Erskine (Insts., ii, 6, 43), that a tenant must use a reasonable degree of diligence in preserving the house from injury. "Had she notified the landlord," he declared, "that she was going away, leaving nobody in charge, and that if anything required to be done, in the way of shutting off the water supply and emptying the pipes, the landlord must see to it that it was done, I think she would have fulfilled her duty to the landlord and used reasonable care in the protection of her landlord's property."

Unless there is an express proviso in the lease for suspension of rent, the fact that burst pipes may make premises unfit for occupation does not, of course, absolve the tenant from this liability. Such a proviso should be carefully drawn. In *Saner* v. *Bilton* (1878), 7 Ch. D. 815, a proviso for suspension in the event of "fire, flood, storm, tempest, or other inevitable accident" was construed to mean only accidents

ejusdem generis with those contemplated and not events due to acts or defaults of the landlord or tenant.

Negligence

The general principles of negligence apply to the acts or omissions of adjoining occupiers, whether they each occupy a part of the same building or occupy different buildings. The duty of the person having control of the water supply is to take the precautions of a prudent householder to prevent the escape of water. A defendant has been held liable for the neglect of his servant in, e.g., blocking a waste pipe with tea leaves, but, in *Blake* v. *Woolf* [1898] 2 Q.B. 426, where the defendant had a cistern on the fourth floor and the plaintiff was the ground-floor tenant and took his water from the defendant, the defendant was held not liable for the negligence of an independent contractor, a plumber who had caused an overflow into the plaintiff's flat.

In *Tilley* v. *Stevenson* [1939] 4 All E.R. 207, the occupier of a lower flat claimed damages from the occupier of an upper flat on the ground that the latter had left it empty without taking proper precautions to prevent pipes from freezing. The claim failed and the Court of Appeal laid it down quite clearly that it was necessary to show that the defendant must have known, or ought to have known, that the water was laid on to the pipes in question. Upon hearing of the likelihood of severe weather an occupier is under no liability if he believes the water is not turned on, although some party may have access to the stopcock. In *George Frensham, Ltd.* v. *Shorn & Sons, Ltd.* [1950] W.N. 406, a radiator under the control of the landlords burst owing to frost penetration of an adjacent war-damaged window and the plaintiffs recovered upon proving the defendants negligent in not keeping the boiler fires lit or, in the alternative, warning the plaintiffs. This kind of accident should have been foreseen and may be contrasted with the position in *Blyth* v. *Birmingham Waterworks Co.* (1856), 11 Ex. 781, where, pipes having originally been properly laid beneath a street, in a very severe frost, a fireplug, which had resisted frost for twenty-five years, was forced out so that the plaintiff's cellar was flooded. The court absolved the company from any liability in negligence.

The rule in *Rylands* v. *Fletcher*

The principle of absolute liability enshrined in *Rylands* v. *Fletcher* (1866), L.R. 3 H.L. 330, has rarely been applied to cases of burst pipes and cisterns. Indeed, *Carstairs* v. *Taylor* (1871), L.R. 6 Exch. 271, a case in which a leak was found to be due to the action of a rat, established the first exception to the *Rylands* case, being earlier in date than *Nicholls* v. *Marsland* (1876), 2 Ex. D. 1, which created another exception. Here the plaintiff failed and the grounds of the decision were variously put as *vis major*, upon the principle that the water was for the common benefit of the plaintiff and the defendant, and upon the principle that one who takes a floor in a house must be held to take the premises as they are. More recently, in *Peters* v. *Prince of Wales Theatre (Birmingham), Ltd.* [1942] 2 All E.R. 533, the plaintiff, who had leased from the defendants a shop forming part of their building which contained a theatre and rehearsal room, suffered injury through the bursting, in heavy frost, of the sprinkler system in this room and the percolation of water to his shop. It was held, on appeal, that the principle of the *Rylands* case did not apply and that there was unbroken authority from *Carstairs* v. *Taylor*, *supra*, to *Rickards* v. *Lothian* [1913] A.C. 263, that, where the plantiff and the defendant occupy different floors of the same building, and water laid on to the building escapes, the party from whose rooms the water escapes is not liable in the absence of negligence. The principle appears to rest on the consent to take the premises as they are, and the fact that the water confers a common benefit is best regarded as an element showing that consent (cf. *Kiddle* v. *City Business Properties, Ltd.* [1942] 2 All E.R. 216). A former statement of the law to the effect that water brought on to premises for business rather than domestic purposes gives rise to liability in the *Rylands* case, whether or not there is negligence, was criticised as too wide. It is not the purpose to which the water is being put which is decisive. It is that the plaintiff takes the premises as they are and consents to the water system which he knows to be therein with all its advantages and disadvantages. He cannot consent to a system being defective unless he knows of the defect. In *A. Prosser & Son, Ltd.* v. *Levy* [1955] 3 All E.R. 577, the damage to the plaintiffs' ground-floor rented premises was caused by a flow of water from a redundant pipe which had not been sealed off but had only a stopcock. It was in a passage on the second floor and under the ownership and control of the first defendants. How the stopcock came to be turned off was not explained. "There are (in such cases)," declared Singleton, L.J., "two important elements for consideration, namely, negligence and consent . . ." The court held that consent to this unusual fitting could not be here implied and, over and above this, negligence was, in any case, established and the case was taken out of the rule in the *Rylands* case because the defendants had not excused themselves by any actual proof of an interference by a third person which could not reasonably be anticipated.

If the parties occupy different buildings this defence of consent does not exist and liability has arisen not only for negligence but under the principle of the *Rylands* case. In *Humphries* v. *Cousins* (1877), 2 C.P.D. 239, a defendant was held liable for an escape of sewage into his neighbour's premises owing to a broken pipe. His liability arose apart from negligence, which had been expressly negatived; but, in the words of Lord Moulton in *Rickards* v. *Lothian*, *supra*, "It is not every use to which land is put that brings into play that principle. It must be some special use bringing with it increased danger to others and must not merely be the ordinary use of the land or such a use as is proper to the general benefit of the community." The decision in *Rickards'* case that the provision of a water system is, in modern times, essentially an ordinary use of premises was followed in *Collingwood* v. *Home & Colonial Stores, Ltd.* [1936] 3 All E.R. 200, where the Court of Appeal said that the doctrine of absolute liability did not apply to the use of water, gas or electricity for ordinary domestic purposes, as distinct from the handling of them in bulk in mains or reservoirs.

A. J. P.

Personal Notes

Sir LAURENCE DUNNE, who has been Chief Metropolitan Magistrate since 1948, will retire in April.

Mr. JOHN MORTIMER's first full-length play, "The Wrong Side of the Park," opened in London on 3rd February.

HERE AND THERE

TEENAGE PROBLEM

You cannot read very far in any newspaper or periodical without coming across a piece about teenage delinquency, its nature, its phenomena, its statistics, its causes and (it is hoped) its cure. According to the temperament of the writer, it is denounced or minimised or condoned. Teenagers are often regarded and usually regard themselves as a race apart, and that is odd because, after all, a human being can only spend seven of his three score years and ten as a teenager and the problem of the teenagers is not a self-contained one like building drains or highways, but is simply how to ensure that they acquire the habits of human beings capable of living in peace with other human beings, that the Teddy Boy shall not grow old as a Teddy Man and that the juvenile delinquent shall not finish up as a senile delinquent. Naturally the militant teenager himself takes it for granted that the world belongs to teenagers and that they are only being kept out of the full enjoyment of their birthright by a lot of "oldsters" (or non-teenagers) who are an unconscionable time in getting out of the way. It must be a disturbing thought for them that life ends at twenty and that they must be in such a hurry.

DIAGNOSIS

THE diagnosis of the teenage *malaise* is warranted to keep journalists and social experts happy (but not quiet) for hours on end. Now that the Prosperity State has so convincingly overthrown the dogma of earlier social reformers that crime and discontent are the results of poverty, the field for speculation is wide open. The trouble is parental indifference or parental indulgence; it is emotional insecurity or arrogance springing from too much money too easily come by; too much is done for the young, so they are bored, or too little is done for them, so they are bored; films of horror and violence nourish their aggressive tendencies or else are merely a psychological safety-valve; they need a clip on the ear and a good hiding or love, love, love and understanding unlimited. One would have thought that beyond these multifarious causes of juvenile delinquency it would have been impossible to discover anything new. But nothing is impossible. All roads now lead to crime, even, it seems, reading Shelley and Wordsworth, for a teenage clerk charged with quietly walking off with £15,000 is reported to have explained that he required this capital sum in order to be able to write poetry and make documentary films like Peter Scott. "I had been reading a lot of Shelley and Wordsworth," he added. "They had enough money to do what they wanted." The conclusion was clear. All he wanted was "a little wooden house by the sea" to finish his days in peace, and for that, one would have said, even in these days, £15,000 was an adequate provision, perhaps an over-estimate. Anyhow, it is a nice change from the rather dreary monotony of the motives which drive forward alike the average juvenile delinquent and, for the matter of that, the average upright citizen practising "the legitimate racket," as they say in "The Lily White Boys," the latest angry young production at Sloane Square. The usual aims are Jaguars, expense account meals and the glossy life generally.

POETRY THE CAUSE

IT will be interesting to see how the experts take to this new cause of juvenile crime. It might of course be asked of those who feel that £15,000 is the minimum endowment necessary for undertaking the ascent of Parnassus: Did Shelley and Wordsworth really have £15,000 of their very own at eighteen? I must look up their lives. Anyhow, even taking it that they were able to meditate and compose uncramped by financial stringency, you can balance their case with Keats and Francis Thompson, who were poor.

"Who fished the murex up?
What porridge had John Keats?"

But, of course, the idea of riches and poverty are within the man. You remember the poet in "The Four Men" and how he defined his idea of being rich: "Oh! not to have to think of things; and not to be for ever in the jeopardy of honour; to be able to dip when one liked into one's purse and to pay for what one wanted, and to succour the needy and to travel and rest at pleasure." Then, says Belloc, "he added as men will who are of infinite imagination and crammed with desires, 'My wants are few.' He was thinking perhaps of a great house upon an eastern hill that should overlook the Mediterranean sea and yet be easily in touch with London and yet again be wholly isolated from the world and have round it just so many human beings as he might wish to have there, and all at his command." In part, that was certainly a self-portrait of poor Belloc. But to return to the young man whose exploit started this meandering meditation, I fear the "experts" will not regard him at all kindly. The average juvenile delinquent is ambitious, vigorous, pushing, puts into circulation the money he takes from others, is only misdirecting the energies which would earn him fame and fortune in business or politics. He wants Jaguars, film stars, plushy restaurants, all the things of which the world, as at present constituted, so much approves. What is one to say to a boy who only wants to sit in a wooden house beside the sea and write poetry, to contemplate the eternal mysteries and live in peace? Alas, what a sad introvert! In him the new world of applied science sees its last enemy, the inner life of a man.

RICHARD ROE.

SOLICITORS BENEVOLENT ASSOCIATION

At the monthly meeting of the board of directors held on 27th January, 1960, Mr. William George Forsyth Ballantyne, T.D., of London, and Mr. John Smyth, M.A., of Melton Mowbray, Leicestershire, were elected directors of the Solicitors Benevolent Association. Forty-six solicitors were admitted as members of the association, bringing the total membership up to 8,387. Fourteen applications for relief were considered, and grants totalling £1,612 were made, £65 of which was in respect of "special" grants for holidays, clothing, etc. All solicitors on the Roll for England and Wales are eligible to apply for membership, and application forms and general information leaflets will gladly be supplied on request to the association's offices, Clifford's Inn, Fleet Street, London, E.C.4. The minimum annual subscription is £1 1s.

BUILDING SOCIETIES

HOUSE PURCHASE AND HOUSING ACT, 1959

The Ipswich and District Building Society has been designated for the purposes of s. 1 of the House Purchase and Housing Act, 1959.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note

Judicial Committee of the Privy Council

SALE OF LAND: CONTRACT REPUDIATED BY VENDOR: CLAIM FOR SPECIFIC PERFORMANCE BEFORE DATE FOR COMPLETION

Hasham *v.* Zenab (as legal representative of Harji)

Lord Tucker, Lord Denning and the Rt. Hon. L. M. D. de Silva
19th January, 1960

Appeal from the Court of Appeal for Eastern Africa.

A contract signed by the defendant (appellant) on 19th February, 1954, for the sale by her to the plaintiff, H. G. Harji (of whom the respondent was the widow and executrix), of a two-acre plot of land in Sclatters Road, Nairobi, provided, *inter alia*, for payment of a deposit of Shs.15,000 immediately and the balance of the purchase price of Shs.100,000 on presentation of documents of title to be executed by both parties within six months from the date of the contract. The defendant repudiated the contract—and tore it up—within a few minutes of signing it on the ground that she had never agreed to sell the whole two acres but only an area of half an acre. On 24th July, 1954, some weeks before the last day for completion, namely, 19th August, the plaintiff instituted proceedings claiming specific performance of the contract of 19th February. The defendant contended, *inter alia*, that the plaint was premature, and that the plaintiff should have waited until there had been a failure to perform the contract within the period fixed thereby, notwithstanding that she had previously intimated her refusal to do so. The Supreme Court of Kenya decreed specific performance of the contract, and that decision was affirmed by the Court of Appeal for Eastern Africa on 15th March, 1957. The defendant appealed.

LORD TUCKER, giving the judgment, said that the plaintiff was entitled to an order for specific performance. The fallacy of the defendant's contention consisted in equating the right to sue for specific performance with a cause of action at law. In equity all that was required was to show circumstances which would justify the intervention by a court of equity. The order for specific performance often fell into two parts, the first being of a declaratory nature and the second containing consequential directions. The first of the forms in Seton's Judgments and Orders, 7th ed., vol. 3, p. 2136, was clearly suitable to a case where the time for performance might not have arrived even at the date of the order, but in such a case, in the event of subsequent non-performance the court would not require the issue of a fresh writ before making the consequential directions for performance. The court would not, of course, compel a party to perform his contract before the contract date arrived, and would give relief from any order in the event of an intervening circumstance frustrating the contract. Their lordships could not accept as conclusive the sentence relied on by counsel for the defendant at p. 866 in the speech of Lord Sumner in *Leeds Industrial Co-operative Society, Ltd.* v. *Slack* [1924] A.C 851. While the defendant's contention was not supported by any authority it was true that there was no express decision in any English case to the contrary, but the view that the plaintiff here was entitled to an order for specific performance accorded with the decisions in the Canadian cases of *Roberto* v. *Bumb* [1943] 2 D.L.R. 613 and *Roy* v. *Kloepfer Wholesale Hardware and Automotive Co., Ltd.* [1951] 3 D.L.R. 122, affirmed in [1952] 1 D.L.R. 158, and by the Supreme Court of Canada in [1952] 2 S.C.R. (Can.) 465. Support for that view was also to be found in the reasoning of Vaisey, J., in *Marks* v. *Lilley* [1959] 1 W.L.R. 749, at p. 752. There was nothing in the Indian Contract Act (applicable in Kenya) to compel acceptance of the contrary view. Appeal dismissed. The appellant must pay the costs of the appeal.

APPEARANCES: *Sir Frank Soskice*, Q.C., and *Alan Campbell* (*Theodore Goddard & Co.*); *Geoffrey Cross*, Q.C., and *Ralph Millner* (*Herbert Oppenheimer, Nathan & Vandyk*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law] **[2 W.L.R. 374**

STATUTE: FAILURE TO COMPLY WITH IMPERATIVE REQUIREMENTS: EFFECT

Edward Ramia, Ltd. *v.* African Woods, Ltd.

Lord Tucker, Lord Denning and the Rt. Hon. L. M. D. de Silva
19th January, 1960

Appeal from the West African Court of Appeal.

This appeal concerned Concession Inquiries. The appellant, Edward Ramia, Ltd., the claimant in Inquiry No. 447, on 20th July, 1953, filed a notice of a concession of timber lands in Ashanti dated 26th May, 1953, granted to it by the Stool of Bekwai. By notice filed on 4th June, 1954, the respondent, African Woods, I td., entered opposition to the grant of a certificate of validity to the appellant in respect of the concession the subject-matter of Inquiry No. 447 in so far as it purported to coincide with the grant claimed by the respondent by virtue of a concession the subject-matter of Inquiry No. 450. The principal ground of opposition was that the appellant had not complied with the provisions of s. 12 of the Concessions Ordinance of the Gold Coast (c. 136 of the 1951 edition of the Laws of the Gold Coast). That section states the various steps to be taken by an applicant for a concession, and in the present case the appellant had admittedly not complied with subss. (2), (3) and (4) of s. 12. Section 13 provided that "No concession shall be certified as valid . . . (11) Unless . . . the concession has been obtained in accordance with the provisions of s. 12." The trial judge in the Land Court at Kumasi dismissed the respondent's opposition. On appeal, the West African Court of Appeal, on 19th March, 1956, declared the appellant's concession invalid. The appellant appealed.

LORD TUCKER, giving the judgment, said that the President of the West African Court of Appeal (the late Sir Henley Coussey) in his judgment said, after quoting from the judgment of Denman, J., in *Caldow* v. *Pixell* (1877), 36 L.T. 469, at p. 470: "Applying these principles, the words of ss. 12 and 13 (11) are to my mind clearly imperative. The respondent could only take a concession under the Ordinance in compliance with s. 12 . . . when you find in an Ordinance only one particular mode of effecting the object, one train of formalities to be observed, the regulative provisions which the section prescribes are essential and imperative . . . The policy of the law clearly insists upon strict observance of the steps already alluded to before there can be a concession. Sections 12 and 13 (11) are so clearly designed to protect the grantor in the public interest that in my opinion the learned judge erred in holding that a waiver is possible of any of the conditions of s. 12 and that the grantors had waived them. . . ." With those words their lordships were in complete agreement and did not desire to add anything thereto. They found no ground for varying the judgment pronounced by the West African Court of Appeal. Appeal dismissed. The appellant must pay the costs of the appeal.

APPEARANCES: *Anthony Cripps*, Q.C., and *Mark Smith* (*Knapp-Fishers & Blake and Redden*); *Dingle Foot*, Q.C., and *T. O. Kellock* (*Birkbeck, Julius, Coburn & Broad*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law] **[1 W.L.R. 86**

EMERGENCY POWERS: DETENTION ORDER: DELEGATION OF DUTIES AND POWERS

Mungoni *v.* A.-G. of Northern Rhodesia

Lord Tucker, Lord Denning and the Rt. Hon. L. M. D. de Silva
25th January, 1960

Appeal from the Federal Supreme Court of Rhodesia and Nyasaland.

The acting Governor of Northern Rhodesia, in exercise of the powers conferred by the Emergency Powers Orders in Council of 1939 and 1956, made the Emergency Powers Regulations, 1956, of Northern Rhodesia, which, by reg. 16 (1), provided that "Whenever the Governor is satisfied that for the purpose of maintaining public order it is necessary to exercise control over any person, he may make an order . . . directing that such person be detained," and, by reg. 47, that "The Governor may . . . depute any person . . . to exercise all or any of the powers conferred on the Governor by these Regulations." The acting Governor having (with certain exceptions not here material) by instrument dated 11th September, 1956, delegated "all the powers" conferred on him by the regulations to the Provincial Commissioner, Western Province, the latter, on 16th September, 1956, made an order of detention against the appellant, Edward Liso Mungoni, an African resident in Northern Rhodesia, which stated: "I am satisfied that for the purpose of maintaining public order it is necessary to exercise control over" the appellant. That order purported to be made under regs. 16 (1) and 47 of the Regulations, and the appellant, in an action for damages for wrongful arrest and detention, contended, *inter alia*, that reg. 16 (1) put a *duty* on the Governor to be satisfied that it was necessary to exercise control before he exercised his *power* to make a detention order, and that his authority under reg. 47 to delegate applied only to *powers* and did not authorise him to delegate his *duty* to be satisfied, which he was bound to fulfil himself personally. The High Court of Northern Rhodesia awarded the appellant £25 damages for wrongful imprisonment. On appeal, the Federal Supreme Court of Rhodesia and Nyasaland on 10th September, 1958, held that the detention order was valid and reversed the award of damages. The appellant appealed.

LORD DENNING, giving the judgment, said that the power and duty under reg. 16 (1) were so interwoven that it was not possible to split the one from the other so as to put the duty on one person and the power in another; the regulation contained not so much a duty, but rather a power coupled with a duty, and he who exercised the power had to carry out the duty. In delegating his functions under reg. 16 (1) the Governor could delegate both the power and duty together to one and the same person—he could not delegate the power to another and keep the duty to himself. The requirement that he was to be satisfied was a condition or limitation on the exercise of the power, and when reg. 47 authorised him to delegate the power to any person, it authorised him to delegate to such person the fulfilment of all the conditions and limitations attaching to it, even though they were also duties. Accordingly, the detention order made by the Provincial Commissioner was valid, and no question arose about damages. Appeal dismissed, and, it being *in forma pauperis*, there would be no order as to costs.

APPEARANCES: *E. L. Mallalieu*, Q.C., *A. Ivan Kaufman* and *John Haines* (*Parke, Tattersall & Co.*); *B. C. Roberts* and *Mervyn Heald* (*Charles Russell & Co.*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law] **[2 W.L.R. 389**

House of Lords

RENT ACTS: UNLAWFUL PREMIUM

Elmdene Estates, Ltd. *v.* White

Viscount Simonds, Lord Radcliffe, Lord Cohen, Lord Keith of Avonholm and Lord Jenkins. 21st January, 1960

Appeal from the Court of Appeal ([1959] 3 W.L.R. 185; 103 SOL. J. 656).

As a condition of obtaining for the plaintiff (the present respondent) the grant of a tenancy of a dwelling-house within the scope of the Rent Acts, a firm of estate agents, Clifford & Clifford, Ltd., acting on behalf of the defendant company (the present appellants), required the plaintiff and his wife to sell their house at South Harrow to a property company, Pegasus Training Estates, Ltd., for £500 less than the market value. The tenancy was granted by the defendant company, which was closely associated by shareholding and directors with the other two companies, though the benefit of the £500 was not transferred to the defendant company. The plaintiff brought proceedings to recover the sum of £500 from the defendant company as an unlawful premium. The county court judge held that the grant of the tenancy was conditional on the sale at the under-valuation but he nevertheless decided that the transaction was not within the prohibition against the requiring of premiums in s. 2 of the Landlord and Tenant (Rent Control) Act, 1949. The plaintiff appealed successfully to the Court of Appeal. The defendants now appealed to the House of Lords.

VISCOUNT SIMONDS said that two questions arose: (1) Did the appellant company require the payment of a premium within the meaning of the Act as the condition of the grant of a tenancy? (2) If they did, was the transaction nevertheless removed from the operation of the Act by the fact that it was required to be paid, not to them nor to any person on their behalf, but to a third party? Both these questions the judge would have decided in favour of the respondent but felt bound to decide the second against him by *R.* v. *Birmingham* (*West*), *etc.*, *Rent Tribunal* [1951] 2 K.B. 54. The Court of Appeal allowed the respondent's appeal. They were right. It could not be supposed that the Legislature intended that a landlord could not lawfully require the payment of a premium for his own benefit, but could do so for the benefit of a wife, a son, a daughter, or any third party. On the first question the judge held that the transaction amounted to the payment of a pecuniary consideration and he was upheld by the Court of Appeal. In considering questions under the Rent Acts one must look at the substance and reality of a transaction, not its form. This was in substance and in form also a consideration stated in terms of money and it was not disguised by the cloak of a sale of property at an undervalue. The fine distinctions between the language of the 1949 Act and of earlier Acts were trivial and did not justify any departure from the plain meaning of the words to be construed. The appeal should be dismissed.

The other noble and learned lords agreed in dismissing the appeal. Appeal dismissed.

APPEARANCES: *L. G. Scarman*, Q.C., and *C. F. Dehn* (*J. H. Milner & Son*); *Megarry*, Q.C., and *Henry Parlmer* (*M. Phillips & Co.*).

[Reported by F. H. COWPER, Esq., Barrister-at-Law] **[2 W.L.R. 359**

Court of Appeal

WILL: CONSTRUCTION

***In re* Douglas' Will Trusts; Lloyds Bank, Ltd. *v.* Nelson**

Lord Evershed, M.R., Sellers and Harman, L.JJ.

9th November, 1959

Appeal from Vaisey, J. ([1959] 1 W.L.R. 744; 103 SOL. J. 657).

By his will a testator, J. Douglas, provided: "I direct my trustees to pay the income from my [residual] estate to my said wife [naming her] for her use during her life provided she so long remain my widow and from and after her decease or second marriage whichever shall first happen then I give my estate and effects to my sisters [naming them] or the survivors or survivor of them. . . ." The sisters, three in number, all survived the testator but predeceased

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(*continued on p. xv*)

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the wife, who had not remarried. On the death of the last surviving sister, Sarah S. Douglas, the trustee of the will took out a summons asking whether the trusts of the residuary estate after the death or remarriage of the widow operated in favour of the estate of S. S. Douglas, or of the estates of the three sisters equally, or failed altogether so that there was a partial intestacy. Vaisey, J., declared in favour of an intestacy, and the personal representives of Sarah S. Douglas appealed.

LORD EVERSHED, M.R., said that it was admitted that the words of survivorship were related to the date when the testator's widow should die or remarry. The appellants, relying on *Browne* v. *Lord Kenyon* (1818), 3 Madd. 410, *Harrison* v. *Foreman* (1800), 5 Ves. 207, and *Sturgess* v. *Pearson* (1819), 4 Madd. 411, had submitted that there were two independent gifts to the sisters, first, an absolute gift as joint tenants, and, secondly, a divesting provision which operated only if at least one sister survived until the widow died or remarried. His lordship rejected that submission. The gifts in the cases cited were to the persons named as tenants in common (but here there were no words of severance), and the rule of construction derived from those cases could only apply where the language of the first gift rendered the reference to survivors inconsistent with the preceding provision, unless the latter was regarded as a divesting provision. The observation of Lord Lindley in *Penny* v. *Commissioners for Railways* [1900] A.C. 628, at p. 634, was not in point. His lordship concluded that the words in question were merely expository of the previous words so as to make the right to obtain anything under the gift contingent on survivorship of the widow's interest. Accordingly, there was a partial intestacy.

SELLERS and HARMAN, L.JJ., agreed. Appeal dismissed.

APPEARANCES: *B. S. Tatham; P. S. A. Rossdale* (*Crossman, Block & Co.*, for *Adam Douglas & Son*, Alnwick); *Oliver Lodge* (*Bolton, Jobson & Martyn*).

[Reported by Miss E. DANGERFIELD, Barrister-at-Law] **[[1959] 1 W.L.R. 1212**

COURT DIRECTION THAT SOLICITORS' NAMES BE OMITTED ON APPEALS FROM ORDERS OF DISCIPLINARY COMMITTEE

In re a Solicitor

Hodson, Harman, L.JJ., and Havers, J. 27th January, 1960

Appeal from the Divisional Court.

During the hearing of an appeal by a solicitor against the dismissal by the Queen's Bench Divisional Court of his appeal from the findings and order of the Disciplinary Committee of The Law Society that he be struck off the Roll for breaches of the Solicitors' Accounts Rules and for professional misconduct, counsel for The Law Society drew the attention of the court to the fact that on each day of the hearing the solicitor's name had been printed in the Daily Cause List. He asked that the court should give a direction that it was proper to leave out the name of the solicitor in appeals of this sort. That was the practice on hearings in the Divisional Court, and in the Chancery Division. Though the damage had been done in the present case and the same thing had happened in the previous week, it would be helpful if the practice of leaving out the name could be ensured for the future.

HODSON, L.J., said that the court would direct that the case should appear as "*In re a Solicitor*" in future Daily Cause Lists, that being the proper practice in appeals of this kind.

[Reported by Miss M. M. HILL, Barrister-at-Law]

SOLICITOR: DISCIPLINARY COMMITTEE

In re a Solicitor

Hodson, Harman, L.JJ., and Havers, J. 1st February, 1960

Appeal from the Divisional Court.

On 29th October, 1959, the Divisional Court upheld an order of the Disciplinary Committee of The Law Society that the appellant, a solicitor, should be struck off the Roll for breach of the Solicitors' Accounts Rules and for conduct unbefitting a solicitor.

HODSON, L.J., said that the first finding of fact which he would consider was cash shortages on clients' accounts of £1,100, which were subsequently reduced to £860. The solicitor had not caused any loss to his clients through such cash shortages because there had at once been transferred from the wife's account a sum sufficient to cover any shortages, and no dishonesty or irregularity was suggested. It had been urged that no client lost any money and that during the material year the solicitor was himself suffering from ill-health. The essential finding of the Disciplinary Committee was that, apart from serious breaches of the Solicitors' Accounts Rules, the appellant's conduct on more than one occasion had indicated that he had no proper idea of the standards to be observed by a solicitor. The cash shortages found involved the utilisation for the purposes of certain clients of money held and received on behalf of other clients and the utilisation for his own purposes of money held by him on behalf of clients. It was argued that what in truth was paid out in this case was money which was the solicitor's own. A specific instance relied on by the appellant was that on 4th April, 1957, he intimated to the solicitors then acting for one of his clients that he would transfer a sum of £2,400 towards payment of his costs; but in fact no costs had been agreed between the solicitor and that client and no bill had ever been delivered. Money remaining in the client's account remained the money of that particular client, even though the solicitor had intimated that it was due to him, and it could only be transferred to the solicitor after delivery of a bill, or in the absence of dispute, by agreement. His lordship rejected the argument that there was no cash shortage. Dealing with the question of delays, his lordship thought that they were exceedingly serious. It was true that, in one instance, the delay was very short, but as the committee had pointed out, the appellant had put himself in the position of being sued for a bill of costs, and when the appellant did in due course deliver a bill of costs it amounted to £2,569 and was taxed down to £728, a feature which could not be overlooked. In considering the matter as a whole, this domestic tribunal was entitled to take into account all relevant matters and, having come to the conclusion that the appellant had fallen from the high standard befitting a solicitor, it would be wrong for this court to interfere, and the appeal would be dismissed.

HARMAN, L.J., and HAVERS, J., concurred. Leave to appeal to the House of Lords was refused; but suspension of execution was granted for four weeks within which the appellant could apply to the Appeals Committee for leave to appeal.

APPEARANCES: *John Foster*, Q.C., and *Paul Sieghart* (*J. F. Beer*); *L. G. Scarman*, Q.C., and *Peter Webster* (*Hempsons*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

Chancery Division

VARIATION OF TRUSTS: FORM OF ORDER: EFFECT OF COURT'S APPROVAL OF ARRANGEMENT

In re Hambleden's Will Trusts

Wynn Parry, J. 15th December, 1959

Adjourned summons.

On an application under s. 1 of the Variation of Trusts Act, 1958, the court approved an arrangement varying the

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(*continued on p. xv*)

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the wife, who had not remarried. On the death of the last surviving sister, Sarah S. Douglas, the trustee of the will took out a summons asking whether the trusts of the residuary estate after the death or remarriage of the widow operated in favour of the estate of S. S. Douglas, or of the estates of the three sisters equally, or failed altogether so that there was a partial intestacy. Vaisey, J., declared in favour of an intestacy, and the personal representives of Sarah S. Douglas appealed.

LORD EVERSHED, M.R., said that it was admitted that the words of survivorship were related to the date when the testator's widow should die or remarry. The appellants, relying on *Browne* v. *Lord Kenyon* (1818), 3 Madd. 410, *Harrison* v. *Foreman* (1800), 5 Ves. 207, and *Sturgess* v. *Pearson* (1819), 4 Madd. 411, had submitted that there were two independent gifts to the sisters, first, an absolute gift as joint tenants, and, secondly, a divesting provision which operated only if at least one sister survived until the widow died or remarried. His lordship rejected that submission. The gifts in the cases cited were to the persons named as tenants in common (but here there were no words of severance), and the rule of construction derived from those cases could only apply where the language of the first gift rendered the reference to survivors inconsistent with the preceding provision, unless the latter was regarded as a divesting provision. The observation of Lord Lindley in *Penny* v. *Commissioners for Railways* [1900] A.C. 628, at p. 634, was not in point. His lordship concluded that the words in question were merely expository of the previous words so as to make the right to obtain anything under the gift contingent on survivorship of the widow's interest. Accordingly, there was a partial intestacy.

SELLERS and HARMAN, L.JJ., agreed. Appeal dismissed.

APPEARANCES: *B. S. Tatham; P. S. A. Rossdale* (*Crossman, Block & Co.*, for *Adam Douglas & Son*, Alnwick); *Oliver Lodge* (*Bolton, Jobson & Martyn*).

[Reported by Miss E. DANGERFIELD, Barrister-at-Law] **[[1959] 1 W.L.R. 1212**

COURT DIRECTION THAT SOLICITORS' NAMES BE OMITTED ON APPEALS FROM ORDERS OF DISCIPLINARY COMMITTEE

In re a Solicitor

Hodson, Harman, L.JJ., and Havers, J. 27th January, 1960

Appeal from the Divisional Court.

During the hearing of an appeal by a solicitor against the dismissal by the Queen's Bench Divisional Court of his appeal from the findings and order of the Disciplinary Committee of The Law Society that he be struck off the Roll for breaches of the Solicitors' Accounts Rules and for professional misconduct, counsel for The Law Society drew the attention of the court to the fact that on each day of the hearing the solicitor's name had been printed in the Daily Cause List. He asked that the court should give a direction that it was proper to leave out the name of the solicitor in appeals of this sort. That was the practice on hearings in the Divisional Court, and in the Chancery Division. Though the damage had been done in the present case and the same thing had happened in the previous week, it would be helpful if the practice of leaving out the name could be ensured for the future.

HODSON, L.J., said that the court would direct that the case should appear as "*In re a Solicitor*" in future Daily Cause Lists, that being the proper practice in appeals of this kind.

[Reported by Miss M. M. HILL, Barrister-at-Law]

SOLICITOR: DISCIPLINARY COMMITTEE

In re a Solicitor

Hodson, Harman, L.JJ., and Havers, J. 1st February, 1960

Appeal from the Divisional Court.

On 29th October, 1959, the Divisional Court upheld an order of the Disciplinary Committee of The Law Society that the appellant, a solicitor, should be struck off the Roll for breach of the Solicitors' Accounts Rules and for conduct unbefitting a solicitor.

HODSON, L.J., said that the first finding of fact which he would consider was cash shortages on clients' accounts of £1,100, which were subsequently reduced to £860. The solicitor had not caused any loss to his clients through such cash shortages because there had at once been transferred from the wife's account a sum sufficient to cover any shortages, and no dishonesty or irregularity was suggested. It had been urged that no client lost any money and that during the material year the solicitor was himself suffering from ill-health. The essential finding of the Disciplinary Committee was that, apart from serious breaches of the Solicitors' Accounts Rules, the appellant's conduct on more than one occasion had indicated that he had no proper idea of the standards to be observed by a solicitor. The cash shortages found involved the utilisation for the purposes of certain clients of money held and received on behalf of other clients and the utilisation for his own purposes of money held by him on behalf of clients. It was argued that what in truth was paid out in this case was money which was the solicitor's own. A specific instance relied on by the appellant was that on 4th April, 1957, he intimated to the solicitors then acting for one of his clients that he would transfer a sum of £2,400 towards payment of his costs; but in fact no costs had been agreed between the solicitor and that client and no bill had ever been delivered. Money remaining in the client's account remained the money of that particular client, even though the solicitor had intimated that it was due to him, and it could only be transferred to the solicitor after delivery of a bill, or in the absence of dispute, by agreement. His lordship rejected the argument that there was no cash shortage. Dealing with the question of delays, his lordship thought that they were exceedingly serious. It was true that, in one instance, the delay was very short, but as the committee had pointed out, the appellant had put himself in the position of being sued for a bill of costs, and when the appellant did in due course deliver a bill of costs it amounted to £2,569 and was taxed down to £728, a feature which could not be overlooked. In considering the matter as a whole, this domestic tribunal was entitled to take into account all relevant matters and, having come to the conclusion that the appellant had fallen from the high standard befitting a solicitor, it would be wrong for this court to interfere, and the appeal would be dismissed.

HARMAN, L.J., and HAVERS, J., concurred. Leave to appeal to the House of Lords was refused; but suspension of execution was granted for four weeks within which the appellant could apply to the Appeals Committee for leave to appeal.

APPEARANCES: *John Foster*, Q.C., and *Paul Sieghart* (*J. F. Beer*); *L. G. Scarman*, Q.C., and *Peter Webster* (*Hempsons*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

Chancery Division

VARIATION OF TRUSTS: FORM OF ORDER: EFFECT OF COURT'S APPROVAL OF ARRANGEMENT

In re Hambleden's Will Trusts

Wynn Parry, J. 15th December, 1959

Adjourned summons.

On an application under s. 1 of the Variation of Trusts Act, 1958, the court approved an arrangement varying the

residuary trusts of a will. Draft minutes of order were then produced which, after reciting that the adult respondents to the summons consented to the order and providing that the court approved the arrangement on behalf of the infant respondents and unborn persons entitled under protective trusts, also contained the words: "And doth authorise and direct the trustees of the said will to carry the said arrangement into effect." No instrument had been executed by any of the adult parties and the court was told that it was not intended that this should be done.

WYNN PARRY, J., said that he did not agree with the decision of Vaisey, J., in *In re Joseph's Will Trusts* [1959] 1 W.L.R. 1019. He had no jurisdiction to make an order including words directing the trustees to carry the arrangement into effect. Nothing was required except the approval of the court to the arrangement. If that approval was given, the trusts were *ipso facto* altered and the trustees were bound thereafter to give effect to the arrangement. His lordship further said that he held that the effect of his approval was effective for all purposes to vary the trusts. Thereafter the trusts were the trusts as varied. No document was necessary. Order accordingly.

APPEARANCES: *Geoffrey Cross*, Q.C., and *D. H. McMullen*; *W. T. Elverston*; *F. E. Skone-James*; *E. G. Wright* (*Bircham & Co.*).

[Reported by Miss PHILLIPA PRICE, Barrister-at-Law] **[1 W.L.R. 82**

Queen's Bench Division

FACTORY: DANGEROUS MACHINERY: HAND DELIBERATELY PLACED IN POSITION OF DANGER

Rushton *v.* Turner Bros. Asbestos Co., Ltd.

Ashworth, J. 22nd July, 1959

Action.

The plaintiff suffered an injury to his hand whilst operating a crushing machine in the course of his employment in the defendants' factory. The plaintiff had been operating this machine for some eight months at the time of the accident, having received full instructions, in particular a clear instruction that he was on no account to clean the grooves of the machine when the machine was in motion. During the day of the accident, when the plaintiff was working the machine, part of the top of a groove broke away, leaving the upper barrier to that extent incomplete. The plaintiff reported this to the foreman, who decided that the repair should be carried out the next day, and that the machine was safe to run for the rest of that shift. The plaintiff then resumed work, being fully aware of the condition of the groove. When the time came to clean the grooves, he attempted to clean them with his fingers without stopping the machine, and his fingers were crushed by the rotating stones.

ASHWORTH, J., said that he had been pressed by counsel for the plaintiff with the submission that this accident did not differ in kind from many other accidents reported in the books in which the defendant employers had been found guilty of a breach of the Factories Act, and none the less the plaintiff had succeeded in spite of considerable contributory negligence on his own part. In each case it was a question of degree, looking at the whole of the circumstances, fairly and broadly, to see whether a breach of the Factories Act was of itself an operative cause of the accident or was more truly in a sense the circumstances in which the accident happened. His lordship found that the plaintiff acted quite deliberately, and that the cause, in the sense of the operative and effective cause of the accident, was wholly to be attributed to him and that he was the sole author of his own misfortune. Judgment for the defendants.

APPEARANCES: *C. T. B. Leigh* (*J. Bright, Clegg & Co.*, Rochdale); *Fenton Atkinson*, Q.C., and *J. M. Collins* (*James Chapman & Co.*, Manchester).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[1 W.L.R. 96**

FACTORY: PUMPING STATION: WHETHER "FACTORY"

Longhurst *v.* Guildford, Godalming and District Water Board

Lord Parker, C.J. 27th November, 1959

Action.

The plaintiff, who was employed by the defendants at one of their pumping stations, was injured when, in the course of his employment, his right hand was caught in the transmission machinery of a pump house at the station. The purpose of the pump house was to put the water under pressure after it had been filtered in the filter house of the station. In an action for damages, the plaintiff alleged negligence at common law and breaches of statutory duty under s. 13 of the Factories Act, 1937, claiming that the pumping station was a factory within the meaning of that Act as defined in s. 151 (1), (6) and (9).

LORD PARKER, C.J., said that he could find no breach of common-law duty. As to the alternative claim of breach of statutory duty, there was little authority and no case in which a water works or pumping station had been held to be a factory. The relevant statutory provisions were s. 151 (1), (6) and (9) of the Factories Act, 1937, and accordingly, as the defendants were a public authority and the plaintiff was engaged in manual labour, his lordship had to consider whether in any part of the precincts of the station there was a process for or incidental to the altering or cleaning of any article or the adapting for sale of any article. His lordship held that water could be an article under s. 151 and that the process of filtering the water in the filter house of the station was the altering or cleaning of an article within the meaning of that section. The most difficult question, however, was the effect of subs. (6). Granting that water was an article, granting that the making of wholesome water was the altering, cleaning or adapting of an article, it seemed to his lordship that all that was done in the pump house was to put pressure on to that article. The effect of that pressure was just a matter of transport; instead of having tankers, the water was forced through the mains to individual houses. Accordingly, so far as the Factories Acts were concerned, the plaintiff failed by reason of subs. (6) in that what was being done in the pump house was something other than the processes for or incidental to what was carried on in the filter house. The action must fail and there must be judgment for the defendants.

APPEARANCES: *G. G. Blackledge*, Q.C., and *Peter Perrins* (*Darracotts*); *F. W. Beney*, Q.C., and *E. W. Eveleigh* (*William Charles Crocker*).

[Reported by A. H. BRAY, Esq., Barrister-at-Law] **[2 W.L.R. 383**

JUSTICES: CONSENT TO SUMMARY TRIAL: CHANGE OF ELECTION

R. *v.* Bennett; *ex parte* Radburn

Lord Parker, C.J., Hilbery and Pearson, JJ.

11th December, 1959

Application for mandamus and prohibition.

The applicant was charged with attempted suicide and, it appearing to the magistrate that the circumstances were such that the offence did not require trial on indictment, and the provisions of s. 19 (3) and (4) of the Magistrates' Courts Act, 1952, having been complied with, she elected to be tried summarily

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Whitchurch.—JOSEPH WRIGHT, Auctioneers, Valuers and Estate Agents, 15 Watergate Street, Whitchurch. Tel. 62.

SOMERSET

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department, New Bond Street Chambers, 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Bath and District.—Estate Agents, Auctioneers and Valuers. Valuations for Probate, Mortgage, etc. HALLETT & CO., 3 Wood Street, Queen Square, Bath. Tel. 3779 and 2118.

Bath and District.—JOLLY & SON, LTD. (Est. 1825.) Estate Agents and Valuers, Funeral Directors. Probate Valuers, Chattell Auction Rooms, Milsom Street, Bath. (Tel. 3291.)

Bath, Bristol and Districts.—LOUIS POWELL & CO., Incorporated Auctioneers, Estate Agents and Valuers, 1 Princes Buildings, Bath. Tel. 2127.

Bath and the West.—CRISP'S ESTATE AGENCY (C. Cowley, F.V.I., Incorporated Surveyor and Valuer. J. L. Cowley, A.A.I., Chartered Auctioneer and Estate Agent) (Est. 1879), Abbey Chambers, York Street, Bath. Tel. 3606 and 61706.

Crewkerne—25 miles radius.—TAYLOR & CO., Auctioneers, Valuers, Surveyors, Estate Agents. Tel. 546.

Taunton and District.—C. R. MORRIS, SONS AND PEARD, Land Agents, Surveyors, Valuers, Auctioneers, 6a Hammet Street. Tel. 2546. North Curry. Tel. 319.

and pleaded not guilty. Evidence of arrest was given by a police-constable, after which the applicant was remanded for seven days for a medical report. At the adjourned hearing the applicant asked for leave to change her election so that she could go for trial. The magistrate (Mr. Paul Bennett, V.C.), deciding that in the circumstances he had no power to allow the applicant to change her election, refused the request. She applied for mandamus and prohibition.

LORD PARKER, C.J., said that the whole matter depended on ss. 19 and 24 of the Magistrates' Courts Act, 1952, and the short question was whether on the facts the magistrate had "begun to try" an information summarily within s. 24. The authorities showed that a court of summary jurisdiction did not begin to try a case until it began to hear the evidence. In the present case the police-constable gave evidence, albeit of a formal nature, and therefore the magistrate could not thereafter proceed to inquire into the case as an examining justice.

HILBERY and PEARSON, JJ., agreed. Application dismissed.

APPEARANCES: *Peter Sheridan* (*Barry Ziff*); *Paul Wrightson*, (*Solicitor, Metropolitan Police*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[1 W.L.R. 102**

Court of Protection

MENTAL DEFICIENCY: SETTLEMENT OF PATIENT'S PROPERTY: RESTRICTION ON PATIENT'S CONTROL OF PROPERTY

***In re C*, 1958, No. 1950**

Danckwerts, J. 18th January, 1960

Application by summons to the judge for an order under s. 171 of the Law of Property Act, 1925, directing a settlement of the patient's property.

A patient was subject to the control of a receiver of income from March, 1953, until November, 1955, during which time he became entitled to considerable funds. On the receiver's discharge the patient dealt very extravagantly with his money. In October, 1958, it again became necessary to appoint a receiver. The prospect of the patient's recovery was small and there was a possibility that if he recovered he might again deal recklessly with his money. A summons was taken out for an order under s. 171 of the Law of Property Act, 1925, authorising the receiver to execute on behalf of the patient a settlement whereby substantially the whole of his property should be held by the Public Trustee as sole trustee on trust as the patient with the consent of the trustee should appoint, and subject thereto, while the patient was subject to a disability, to hold the capital and income for his benefit as the master of the Court of Protection should direct, with power, while he was not subject to a disability, to advance capital with his consent, the patient to have a protected life interest and a general power of appointment by will.

DANCKWERTS, J., said that it should be noted that s. 171 was repealed by the Mental Health Act, 1959, which had not yet come into force; but s. 103 of that Act contained provisions which were extremely similar to those of s. 171 of the Law of Property Act, 1925. The general principle followed by the court as a matter of practice hitherto had been that, when a patient was discharged from the control of the receiver of his income, he was usually given his property free from any restriction, so that he was able to deal with it completely as he wished. But the facts of this case were very unusual. There was no power of revocation in the settlement but there was a general power of appointment which would enable the property to be appointed to the patient himself if the power were exercised with the consent of the trustee of the proposed settlement. It had been held by the lords justices sitting as judges in lunacy in *In re C. W. M.*, 1941, *No.* 2396 [1951] 2 K.B. 714, that the court in its discretion was not bound to insist upon a power of revocation. It would appear, therefore, that the insertion of a power of revocation was by no means essential. Reliance had also been placed on the practice as set out in Heywood & Massey, 7th ed. (1954), at p. 45, relating to the provisions in the case of a lunatic so found, which was an analogous jurisdiction. He had a general discretion under s. 171 of the Law of Property Act, 1925, and the question remained whether he should exercise it in the manner which was suggested by the present application. He had come to the conclusion that in the interests of the patient himself it was quite plain that an order should be made by which the settlement in the terms suggested should be executed. It appeared that the patient might recover physically, but his powers of concentration and appreciation apparently were likely to be impaired. This was a case where it was proper and desirable that the court should restrain the patient if he came out into the world again so that he would not be able to squander his property to his own detriment. This settlement was for the purpose of preserving his property so that it would be available for his maintenance, and to secure him against want and misfortune in his financial circumstances: consequently, his lordship was prepared to exercise his jurisdiction under s. 171 by authorising the settlement on the terms of the draft which had been put before him.

APPEARANCES: *W. S. Wigglesworth* (*Longhurst & Butler*); *J. A. Wolfe* (*Official Solicitor*).

[Reported by Miss M. G. THOMAS, Barrister-at-Law] **[1 W.L.R. 92**

"THE SOLICITORS' JOURNAL," 11th FEBRUARY, 1860

ON the 11th February, 1860, THE SOLICITORS' JOURNAL published the report of the directors of the Law Newspaper Co., Ltd.: "When the directors were making their first arrangements for the establishment of THE SOLICITORS' JOURNAL AND REPORTER, they were informed that they must be prepared to carry it on at a loss for a period of three years at least, and that if, at the end of that period, it should prove to be self-supporting, they might consider the undertaking quite successful. At that time their own anticipations pointed, perhaps, to speedier and more complete success of the undertaking, knowing that a widely acknowledged professional want was to be supplied by it; and they were further encouraged by the rapidity with which the total number of shares were taken up . . . The journal has now attained the completion of its third year, and the history of its progress has corresponded very much with the advice and information obtained by the directors at the outset of the undertaking. The directors, however, have to congratulate the shareholders that the anticipations they ventured to make in their last annual report have now been realised. The Journal and Reporter are now self-supporting, with every prospect of soon yielding an annual profit . . . The directors have every reason to be satisfied with the purchase of THE WEEKLY REPORTER which, under the present management, has proved, not only a source of profit in itself, but, as anticipated, is found to afford strength and assistance to the Journal with which it has become identified. It is confidently expected that the accounts of the company next year will show that a substantial profit has been realised . . ."

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Administration of Justice (Contempt of Court) Bill [H.L.] [4th February.

To amend the law relating to contempt of court.

Bournemouth Corporation Bill [H.L.] [28th January.
Bude-Stratton Urban District Council Bill [H.L.] [28th January.
Canterbury and District Water Bill [H.L.] [28th January.
Cardiff Corporation Bill [H.L.] [28th January.

Charities Bill [H.L.] [4th February.

To replace with new provisions the Charitable Trusts Acts, 1853 to 1939, and other enactments relating to charities, to repeal the Mortmain Acts, to make further provision as to the powers exercisable by or with respect to charities, and for purposes connected therewith.

City of London (Various Powers) Bill [H.L.] [28th January.
Derby Corporation Bill [H.L.] [28th January.
Derbyshire County Council Bill [H.L.] [28th January.
Essex County Council (Fullbridge, Maldon) Bill [H.L.] [28th January.

Local Employment Bill [H.C.] [4th February.

London and Surrey (River Wandle and River Graveney) (Jurisdiction) Bill [H.L.] [28th January.
London County Council (General Powers) Bill [H.L.] [28th January.
Manchester Ship Canal Bill [H.L.] [28th January.
Methodist Church Funds Bill [H.L.] [28th January.
Mexborough and Swinton Traction Bill [H.L.] [28th January.
Northampton County Council Bill [H.L.] [28th January.
Oldham Corporation Bill [H.L.] [28th January.
Presbyterian Church of England Bill [H.L.] [28th January.
Royal College of Physicians of London Bill [H.L.] [28th January.
Salford Corporation Bill [H.L.] [28th January.
Southampton Corporation Bill [H.L.] [28th January.
Southend-on-Sea Corporation Bill [H.L.] [28th January.
University of Bristol Bill [H.L.] [28th January.

Read Second Time:—

Public Health Laboratory Service Bill [H.L.] [4th February.

In Committee:—

Matrimonial Proceedings (Magistrates' Courts) Bill [H.L.] [4th February.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time:—

Bala to Trawsfynydd Highways (Liverpool Corporation Contribution) Bill [H.C.] [3rd February.

Racial and Religious Insults Bill [H.C.] [2nd February.

To make it an offence to insult publicly or conspire to insult publicly any person or persons because of their race or religion; and for purposes connected therewith.

War Damage (Clearance Payments) Bill [H.C.] [2nd February.

To validate payments made by the War Damage Commission before the passing of this Act in respect of the clearance of war-damaged land, and to make further provision for such payments by the Commission.

Read Second Time:—

Brighton Corporation Bill [H.C.] [2nd February.
Cornwall County Council Bill [H.C.] [2nd February.
Corporate Bodies' Contracts Bill [H.C.] [5th February.
Lancashire County Council (Industrial Development, etc.) Bill [H.C.] [2nd February.
Legal Aid Bill [H.C.] [1st February.
Newcastle-upon-Tyne Corporation Bill [H.C.] [2nd February.
Population (Statistics) Bill [H.L.] [1st February.
Public Bodies (Admission of the Press to Meetings) Bill [H.C.] [5th February.
Requisitioned Houses Bill [H.C.] [4th February.
Royal Exchange Assurance Bill [H.C.] [2nd February.
Saint Martin's Parish Church Birmingham Bill [H.C.] [2nd February.
Saint Peter Upper Thames Street Churchyard Bill [H.C.] [2nd February.
St. Peter's Church Nottingham (Broad Marsh Burial Ground) Bill [H.C.] [2nd February.
Saint Stephen Bristol (Burial Grounds, etc.) Bill [H.C.] [2nd February.
Somerset County Council Bill [H.C.] [2nd February.
Tyne Tunnel Bill [H.C.] [2nd February.
Water Officers Compensation Bill [H.L.] [4th February.

Read Third Time:—

Wages Arrestment Limitation (Amendment) (Scotland) Bill [H.C.] [5th February.

B. QUESTIONS

INTERNATIONAL COURT OF JUSTICE

Mr. R. ALLAN said that the following thirty-nine countries did accept the jurisdiction of the International Court of Justice: Australia, Belgium, Cambodia, Canada, China, Colombia, Denmark, Dominican Republic, El Salvador, Finland, France, Haiti, Honduras, India, Israel, Japan, Liberia, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Philippines, Portugal, Sudan, Sweden, Switzerland, Thailand, Turkey, Union of South Africa, United Arab Republic, United Kingdom, United States and Uruguay. Of the thirty-nine states which had accepted the jurisdiction three (Haiti, Nicaragua and Paraguay) had accepted it without reservation. Eighteen maintained minor reservations and the remaining eighteen had reservations which were more extensive (cf. pp. 205 to 227 of the Year Book of the International Court of Justice, 1958–59). [3rd February.

STATUTORY INSTRUMENTS

Fire Services (Appointments and Promotion) Regulations, 1960. (S.I. 1960 No. 130.) 5d.

Fylde Water Board Order, 1960. (S.I. 1960 No. 89.) 1s. 5d.

Gott Bay Pier Order, 1959. (S.I. 1959 No. 106.) 6d.

Import Duties (Temporary Exemptions) (No. 1) Order, 1960. (S.I. 1960 No. 136.) 5d.

London Traffic Regulations, 1960:—

Prescribed Routes:—

Paddington and St. Marylebone. (S.I. 1960 No. 100.) 4d.
Southwark (No. 2). (S.I. 1960 No. 143.) 4d.
Westminster. (S.I. 1960 No. 101.) 4d.

Movement of Animals (Records) Order, 1960. (S.I. 1960 No. 105.) 6d.

Newmarket (Water Charges) Order, 1960. (S.I. 1960 No. 77.) 4d.

Newton-le-Willows (Water Charges) Order, 1960. (S.I. 1960 No. 68.) 4d.

Nurses (Area Nurse-Training Committees) Order, 1960. (S.I. 1960 No. 119.) 7d.

Plant and Machinery (Rating) Order, 1960. (S.I. 1960 No. 122.) 6d.

This order, which came into operation on 8th February last, brings into effect on 1st April a revised list of plant and machinery liable for rates in England and Wales. The list, with modifications, is that recommended by the committee under the chairmanship of Sir Edward Ritson which was appointed in 1957.

Purchase Tax (No. 1) Order, 1960. (S.I. 1960 No. 95.) 8d.

REGISTER OF
Auctioneers, Valuers, Surveyors, Land and Estate Agents

SOMERSET (*continued*)

Weston-super-Mare.—F. S. GARDINER, Estate Agent, 47 Oxford Street. Tel. 6312/3.

Weston-super-Mare.—LALONDE BROS. & PARHAM (Est. 1848), 23 Waterloo Street (Tel. 4500); and at Bristol.

Weston-super-Mare and District.—MASTERS & CO., F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 5 High Street. Tel. 6443/4.

Yeovil and District.—PALMER, SNELL & CO., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. Tel. 25 and 1796. London Office: 130 Mount Street, W.1.

STAFFORDSHIRE

Stoke-on-Trent and North Staffs.—CHARLES BUTTERS & SONS. Established 1856. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, Trinity Buildings, Hanley, Stoke-on-Trent. Tel. 2138/9. Also at Leek.

SUFFOLK

Bury St. Edmunds and East Anglia.—LACY SCOTT AND SONS, 3 Hatter Street, Bury St. Edmunds. Phone 43 and 692.

Ipswich and East Anglia.—SPURLINGS & HEMPSON (Est. 1780), Chartered Surveyors, Chartered Auctioneers, 26 Princes Street, Ipswich. Tel. 51807/8.

Ipswich and East Anglia.—WOODCOCK & SON, 16 Arcade Street, Ipswich. Tel. 54352 (2 lines). Specialists in Selling Country Property and Farms. Established 1850.

Woodbridge.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Ashtead and Leatherhead.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 8 High Street, Leatherhead. Tel. 4136/7 (5 Offices).

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 1619.

Caterham and District, Sanderstead to Purley. J. C. O'BRIEN, Station Avenue, Caterham. Tel. 4255 and 348. Limpsfield Road, Sanderstead. Tel. 4426.

Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 26 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6.

Croydon. Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1882. 2 and 4 George Street, Croydon. CROydon 3128/9/0.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at 70 Victoria Street, S.W.1. Tel. Victoria 2893.

Croydon and Epsom.—ROBT. W. FULLER, MOON AND FULLER, Chartered Surveyors, Valuers and Auctioneers, 85 High Street, Croydon (CRO 3124/6), and at Epsom (communications to Croydon Office). Established 1824.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers. 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Cheam Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

Dorking & London.—PEARSON, COLE & SHORLAND, Auction and Estate Offices, Dorking. Tel. 3897/8. Surveyors, Valuers and Auctioneers; and at 2 Hans Road, S.W.3. Tel. Kensington 0066.

Dorking, Bookham and Effingham.—CUBITT AND WEST. Tel. Dorking 2212, Bookham 2744. Valuers, Surveyors, Estate Agents.

Dorking and Reigate.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 258/260 High Street, Dorking. Tel. 4071/2. 6 Church Street, Reigate. Tel. 4422/3. And at Leatherhead an Epsom.

Epsom and Ewell.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 10 High St., Epsom. Tel. 2362/4. (5 Offices, Ewell to Leatherhead).

Epsom and Leatherhead.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—EWBANK & CO., in association with Mann & Co. Est. 1891. Tel. 3537/8. Offices throughout West Surrey.

Esher and District.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street. Tel. Esher 12.

SURREY (*continued*)

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Farnham.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5274 (2 lines).

Farnham.—CUBITT & WEST. Tel. Farnham 5261. Valuers, Surveyors, Estate Agents.

Farnham.—GERMAN, ADDY & CO. (Est. 1903). Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 111 West Street. Tel. 5283/4.

Farnham.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 4189.

Godalming.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, Estate Offices. Tel. 1722 (5 lines).

Godalming.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 1010/1.

Guildford.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 67781/2.

Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

Guildford.—MESSENGER, MORGAN & MAY, Chartered Surveyors, 8 Quarry Street. Tel. 2992/4.

Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 4 and 1176.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

Kingston.—NIGHTINGALE, PAGE & BENNETT, Est. 1825, Chartered Surveyors, 18 Eden Street. Tel. KIN 3356.

Kingston upon Thames and Area.—BENTALLS ESTATE OFFICES (L. J. Smith, F.A.L.P.A., P. F. Parkinson, B.Sc., A.A.L.P.A.), Wood St. KIN 1001. Sales, surveys, property and chattel valuations, lettings, management.

Leatherhead, Ashtead, Oxshott.—CHAS. OSENTON AND CO., Chartered Auctioneers, 36 North Street, Leatherhead. (Tel. 3001/2); Ashtead 2382, Oxshott 3344.

Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Redhill and Merstham.—E. H. BENNETT & PARTNERS, Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

Reigate.—MARTEN & CARNABY, Surveyors, Auctioneers and Valuers, 23 Church Street. Tel. 3361/2.

Richmond.—ACLAND & CO., Estate Agents, Surveyors and Valuers. Rents collected. 27 Kew Road (Opposite Richmond Station). Tel. RIC 4811/2.

Richmond.—PENNINGTONS, 23 The Quadrant, Auctions, Valuations, Surveys. Rents collected. Tel. RIC 2255 (3 lines).

Sanderstead.—HOOKER & ROGERS, Railway Approach, Sanderstead. Manager, K. C. Fox, A.R.I.C.S. Tel. SAN 4414/5.

Surbiton.—E. W. WALLAKER & CO., F.A.L.P.A., Surveyors, Valuers, Auctioneers and Estate Agents, 56/7 Victoria Road, Surbiton, Surrey. Tel. Elmbridge 5381/4 and 4750, and at Chessington, Surrey, Shoreham-by-Sea and Lancing, Sussex. (Chartered Surveyor D. J. Peachey, F.R.I.C.S.)

Sutton.—DOUGLAS GRAHAM & CO., Estate Agents, Property Managers, 269 High Street. Tel. VIG 0026/7/8. And at Thornton Heath, Norbury and Piccadilly, W.1.

Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 300 Abbey House, Westminster.

Thornton Heath.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, 781 London Road. Tel. THO 6211/2.

Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

Virginia Water and Wentworth.—GOSLING AND MILNER, Station Approach, Virginia Water. Tel. Wentworth 2277. And at 8 Lower Grosvenor Place, S.W.1. Tel. Victoria 3634.

Wallington.—WILLIAM A. DAVIS & PARTNERS, 4 Stanley Park Road. Tel. Wallington 2567.

Walton.—MANN & CO. Est. 1891, 38 High Street. Tel. 2331/2. Offices throughout West Surrey.

Walton and Weybridge.—HIGBY & CHARD (Consultants: George Geen, M.A., F.R.I.C.S., V. C. Lawrence, F.R.I.C.S.), 45 High Street, Walton-on-Thames. Tel. 2487/8.

Walton/Weybridge.—WARING & CO. Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co. Est 1891. Tel. 3288/9. Offices throughout West Surrey.

Weybridge.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 2323/5. Offices throughout West Surrey.

Weybridge and District.—J. E. PURDIE & SON, Chartered Surveyors and Estate Agents, 1 and 3 Queens Road, Weybridge. Tel. 3307 (3 lines), and at Walton-on-Thames.

Weybridge and District.—WATERER & SONS, Chartered Auctioneers and Estate Agents, Surveyors, etc. Tel. 3838/9.

(*continued on p. xviii*)

SURREY (*continued*)

Woking.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 3263/4.

Woking.—MANN & CO., Est. 1891, Chartered Surveyors. Tel. 3800 (6 lines). Offices throughout West Surrey.

Woking.—MOLDRAM, CLARKE & EDGLEY, Chartered Surveyors. Tel. 3419; and at Guildford.

SUSSEX

Angmering-on-Sea, Rustington, Worthing and Storrington.—BERNARD TUCKER & SON. Est. 1890. L. B. Tucker, F.R.I.C.S., F.A.I., G. H. E. Evans, F.A.L.P.A., W. J. Brown, F.A.I. Tels. Rustington 1, Worthing 5708/9. Storrington 535.

Arundel and Rustington.—HEASMAN & PARTNERS. Tel. Arundel 2323, Rustington 900.

Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

Bexhill-on-Sea and Cooden.—ERNEST SHEATHER, F.A.I., Chartered Auctioneer and Estate Agent, 14 St. Leonards Road. Tel. 350, 351 and 2280.

Bexhill-on-Sea and Little Common.—RICHES & GRAY (Est. 1883). Chartered Auctioneers and Estate Agents, 25 Sea Road, Bexhill-on-Sea. Tel. 34/5. And at 25 Cooden Sea Road, Little Common. Tel. Cooden 2939.

Brighton.—RAYMOND BEAUMONT, F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 35 East Street. Tel. Brighton 20163.

Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

Brighton.—H. D. S. STILES & CO., F.R.I.C.S., F.A.I. (special rating diploma), 6 Pavilion Buildings. Tel. Brighton 23244 (4 lines). 10 King's Bench Walk, Temple E.C.4. Tel. Central 5356. 3 The Steyne, Worthing. Tel. Worthing 9192/3.

Brighton.—FRANK STONE & PARTNERS, F.A.L.P.A., 84 Queen's Road. Tel. Brighton 29252/3.

Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

Brighton, Hove and Surrounding Districts.—MAURICE P. HATCHWELL, F.R.I.C.S., F.A.I., Chartered Surveyor, Chartered Auctioneer and Estate Agent, 4 Bartholomews, Brighton, 1. Tel. Brighton 23107.

Brighton and Hove and Surrounding Districts.—C. HORTON LEDGER, F.A.I., Established 1885. Chartered Auctioneer and Estate Agent, Surveyor and Valuer, "Sussex House," 126/7 Western Road, Hove, Sussex. Tel. 71291.

Chichester and Bognor Regis.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, South Street, Chichester. Tel. 3031 (5 lines). Station Road, Bognor Regis. Tel. 2237/8.

Crawley.—JOHN CHURCHMAN & SONS, Chartered Surveyors, Valuers, Land Agents. Tel. Crawley 1899.

Crawley.—WM. WOOD, SON & GARDNER, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, Estate Offices, Friston Hill, East Dean, Nr. Eastbourne. Tel. East Dean 2277.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road. Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 87 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER, Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK, Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, A.R.I.C.S.), Consultant Chartered Surveyors. Estd. 1892. 6-7 Havelock Road, Hastings. Tel. 5661/2.

Hastings, St. Leonards and East Sussex.—WEST (Godfrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

Horsham.—KING & CHASEMORE, Chartered Surveyors. Auctioneers, Valuers, Land and Estate Agents. Tel. Horsham 3355 (3 lines).

Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

REGISTER OF

Auctioneers, Valuers, Surveyors, Laad and Estate Agents

SUSSEX (continued)

Hove.—DAVID E. DOWLING, F.A.L.P.A., Auctioneer, Surveyor, Valuer & Estate Agent. 75, Church Road, Hove. Tel. Hove 37213 (3 lines).

Hove.—PARSONS SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.

Hove and District.—WHITLOCK & HEAPS, Incorporated Auctioneers, Estate Agents, Surveyors and Valuers, 65 Sackville Road. Tel. Hove 31822.

Hove, Portslade, Southwick.—DEACON & CO., 11 Station Road, Portslade. Tel. Hove 48440.

Lancing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Lewes and Mid-Sussex.—CLIFFORD DANN, B.Sc., F.R.I.C.S., F.A.I., Fitzroy House, Lewes. Tel. 750. And at Ditchling and Hurstpierpoint.

Seaford.—W. G. F. SWAYNE, F.A.I., Chartered Auctioneer and Estate Agent, Surveyor and Valuer, 3 Clinton Place. Tel. 2144.

Storrington, Pulborough and Billinghurst.—WHITEHEAD & WHITEHEAD amal. with D. Ross & Son, The Square, Storrington (Tel. 40), Swan Corner, Pulborough (Tel. 232/3), High Street, Billinghurst (Tel. 391).

Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).

West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.

Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.

Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.

Worthing.—Patching & Co., Est. over a century. Tel. 5000. 5 Chapel Road.

Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2 Midland 4784 (4 lines).

WARWICKSHIRE (continued)

Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.

Coventry.—CHAS. B. ODELL & CO. (Est. 1901) Auctioneers, Surveyors, Valuers and Estate Agents, 53 Hertford Street. Tel. 22037 (4 lines).

Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).

Rugby and District.—WIGGINS & RUSSELL, Auctioneers, etc., 14 Regent Place, Rugby (Tel. 2548).

Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.

Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & PARTNERS, F.A.I., 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (continued)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I., Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).

Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 33991/2.

Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street. Tel. 30429.

Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.

Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.

Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.

Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

Wrexham, North Wales and Ellesmere, Shropshire.—WINGETT & SON, Chester Street, Wrexham. Tel. 2050.

Stopping up of Highways Orders:—
County of Bedford (No. 1). (S.I. 1960 No. 82.) 5d.
County of Chester (No. 2). (S.I. 1960 No. 107.) 5d.
County of the Isle of Wight (No. 1). (S.I. 1960 No. 90.) 5d.
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County of Stafford (No. 1). (S.I. 1960 No. 99.) 5d.
County of Wilts (No. 1). (S.I. 1960 No. 108.) 5d.

Treasury (Loans to local authorities) (Interest) Minute, 1960. (S.I. 1960 No. 135.) 5d.

Treasury (Loans to persons other than local authorities) (Interest) Minute, 1960. (S.I. 1960 No. 137.) 5d.

Wages Regulation (Hairdressing) Order, 1960. (S.I. 1960 No. 96.) 11d.

Wages Regulation (Hat, Cap and Millinery) (England and Wales) Order, 1960. (S.I. 1960 No. 121.) 7d.

Wimborne and Cranborne Rural District (Advance Payments for Street Works) Order, 1960. (S.I. 1960 No. 120.) 4d.

SELECTED APPOINTED DAYS

February
1st Factories Act, 1959, ss. 2, 5, 6, 7; s. 34 (2) (part only) and Pt. I of Sched. III (part only).

REVIEW

Natural Justice. By H. H. MARSHALL, C.M.G., LL.B., Q.C. (Nigeria), of Gray's Inn, Barrister-at-Law. pp. xxiii and (with Index) 201. 1959. London: Sweet & Maxwell, Ltd. £1 15s. net.

The object of this work is to deal comprehensively and exclusively with the subject of natural justice and the author has sought to arrange and classify the available material in such a way as to extract and demonstrate the underlying principles. A work on this subject is obviously of interest to lawyers and the author hopes that it will also be of value to laymen called upon to carry out judicial or quasi-judicial functions. In our view this hope is justified as the author has written clearly and methodically without omitting the detail so necessary to the practitioner. As far as English readers are concerned, the chapters dealing with natural justice in relation to English courts and arbitrators and arbitrations are likely to be particularly useful, but the author has also noted the position which natural justice holds in relation to criminal appeals to the Judicial Committee of the Privy Council from colonial courts. He has also considered natural justice as a test of the validity of foreign judgments and in connection with domestic tribunals and the exercise of statutory powers by ministers, administrative tribunals and individuals. The work is indexed and there are the usual tables of statutes and cases.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Points in Practice

Landlord and Tenant—DETERMINATION OF TENANCY —ON WHOM NOTICE TO QUIT SHOULD BE SERVED

Sir,—With reference to your reply on p. 18, *ante*, would not another view be that the contractual tenancy vested in the President of the Probate Court on whom notice to quit should be served followed by proceedings against the brother for trespass?

HALLEWELL & CO.

London, N.5.

[*Our contributor writes:* We agree that as an alternative to the course we suggested a notice to quit could be served on the President of the Probate Division. This is explained in *Egerton* v. *Rutter* [1951] 1 K.B. 472, the case we cited in our previous answer.]

BOOKS RECEIVED

Copyright in Industrial Designs. Third Edition. By R. D. RUSSELL-CLARKE, of the Inner Temple, Barrister-at-Law. pp. xx and (with Index) 233. 1960. London: Sweet & Maxwell, Ltd. £2 net.

The Town and Country Planning Act, 1959. By T. J. NARDECEHIA, B.Sc., F.R.I.C.S., F.A.I., and DAVID SULLIVAN, M.A., B.C.L., of the Inner Temple and the Midland Circuit, Barrister-at-Law. pp. xv and (with Index) 480. 1960. London: The Royal Institution of Chartered Surveyors. £2 5s. net.

Criminal Case and Comment, 1959. Edited by J. C. SMITH, M.A., LL.B., Barrister-at-Law. pp. xx and (with Index) 194. 1960. London: Sweet & Maxwell, Ltd. 17s. 6d. net.

Eleanor Rathbone Memorial Lecture: The Equality of Women. By the Rt. Hon. the LORD DENNING, Q.C. pp. 16. 1960. Liverpool: Liverpool University Press. 3s. 6d. net.

NOTES AND NEWS

H.M. LAND REGISTRY

To relieve congestion in H.M. Land Registry, Lincoln's Inn Fields, the registers, filed plans and index maps relating to the counties of Lancashire, Cheshire, Westmorland and Cumberland are being removed to Government Buildings, St. Annes, Lancs, on 7th March next, where, as from that date, the registration of title work arising from those areas will be done. It would be convenient if applications for registration, searches, etc., affecting titles in these areas could be sent there direct. Personal searches of the registers and index maps may be made at St. Annes, but where it is desired to inspect these records in London they will be made available at Lincoln's Inn Fields at three days' notice. The full address of the St. Annes sub-office is: H.M. Land Registry, Government Buildings, Moorland Road, St. Annes, Lancashire, but the G.P.O. have agreed that the postal address should be shortened to: H.M. Land Registry, Lytham St. Annes, Lancs. (Telephone No.: St. Annes 2300).

COMPANY LAW COMMITTEE

Written evidence to be placed before the Company Law Committee should be sent by 15th April, 1960, to The Secretary, Company Law Committee, Board of Trade, Horse Guards Avenue, London, S.W.1. The Board of Trade has requested that twenty-five copies be supplied. Topics on which evidence will be welcomed were set out in our issue of 29th January, pp. 91–92. The Council of The Law Society have invited solicitors to forward their views on this subject to the Council by 19th February with a view to the Council's correlating such views in formulating their own evidence.

★ Classified Advertisements ★

continued from p. xix

APPOINTMENTS VACANT—*continued*

ISLE OF WIGHT.—Assistant solicitor (aged 30–40) required by conveyancing and probate firm with a view to early partnership. Generous terms to right man who must be a sound conveyancer.—Apply Box No. 6330, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BEDFORDSHIRE Solicitors have vacancy for active and energetic young Solicitor for general practice. Good salary and prospects in busy and expanding firm. Apply Box 6332, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Assistant, admitted or unadmitted, to act as personal assistant to Partner in West End firm of Solicitors preferably capable of working without supervision, but willingness and ability of equal importance. Five-day week, good prospects.—Box 6333, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CASHIER required by West End Solicitors. Sole charge. Commencing salary £1,000 per annum for person of experience and ability.—Box 6334, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

FIRST-CLASS litigation managing clerk required by West End Solicitors. Applicants must have sound experience of all branches (except Admiralty) and must be prepared to work hard and without supervision. Commencing salary £1,200 per annum. Excellent prospects of advancement.—Box 6336, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED partner required by West End Solicitors. Share at least £3,000 per annum. Capital required.—Box 6335, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CHELTENHAM.—Assistant Solicitor (public school) wanted for old-established general practice; must be used to acting without supervision and willing to undertake advocacy; commencing salary £1,000; prospects of partnership.—State age and experience to Box 6348, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

A rapidly expanding company of chemical manufacturers in the South of England requires a

LEGAL ASSISTANT

Applications are invited from solicitors or barristers admitted or called in England who are not more than 30 years of age and who have had at least 2 years' experience since qualifying either in a solicitor's office or in chambers.

The person appointed will assist generally in the work of the Company's Legal Department, which is concerned with a wide variety of matters in the commercial and company law fields.

A good and progressive salary will be provided with appropriate fringe benefits. Removal expenses on joining will be paid, and housing assistance provided.

Details of education, qualifications and experience should be sent, in confidence, to Box No. 6343, Solicitors' Journal, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Clerk required by West End Solicitors. Excellent prospects for advancement. 5-day week. Salary commensurate with experience.—Box 5788, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Trusts Clerk required by West End Solicitors. Knowledge of Company work an advantage. Experience and ability essential as progressive post. No Sats.—Box 5789, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OPPORTUNITY for newly qualified man or woman in conveyancing and probate department of old-established South-East Essex firm, perhaps a little advocacy. Excellent prospects for the right person.—Box 6345, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR OR BARRISTER

required in LEGAL DEPARTMENT at the London Headquarters of a large Industrial Corporation. The post which offers good prospects would suit a recently qualified man (including a March finalist) of high ability and energy. The successful applicant will be engaged initially in work of a commercial nature, but will have opportunities of gaining wider experience in common law, parliamentary and other work. The initial salary will probably be between £900 and £1,000, but more would be paid if the applicant's experience justified it. There are good prospects of early promotion for the right man. The post is superannuable. Write giving particulars of age, education, qualifications and experience to Box No. 6344, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4. Closing date 29th February, 1960.

SOUTHEND-ON-SEA old-established firm urgently require assistant (either sex) in conveyancing and probate department to work under supervision if necessary. General practice with opportunities of obtaining wide experience in all branches. Knowledge of court work or advocacy not required. Write stating age, experience and salary. Free articles considered for the right person.—Box 6346, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA solicitors require litigation clerk, knowledge district registry procedure. Divorce, common law essential. Particulars experience. Salary required.—Box 6347, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BUSY old-established City Solicitors require experienced Litigation Managing Clerk, capable of working without supervision. Good salary by arrangement.—Write Box 145, Reynells, 44 Chancery Lane, W.C.2.

CONVEYANCING Clerk required by City Solicitors. Hours 10 a.m. to 5.30 p.m. No Saturdays.—Apply, giving age and experience and salary required to Box 6349, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ENFIELD, Middlesex. City Solicitors opening branch office approximately beginning of April, require energetic and able Conveyancing assistant, admitted or unadmitted, to take full charge. Immense scope and prospects.—Box 6356, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY Solicitors require unadmitted Probate Clerk.—Write giving particulars with age, experience and salary required, to Box 6350, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANCHESTER.—Solicitors with a busy general practice require a recently qualified Solicitor seeking varied experience to act as assistant to Senior Partner.—Box 6351, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SUTTON/CHEAM.—Well established firm with expanding practice need an active and ambitious young Solicitor to attend principally to conveyancing and probate work. Good salary and prospects for right man.—Box 6352, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor required. Salary by arrangement.—Apply, Maughan & Hall, Lloyds Bank Chambers, Collingwood Street, Newcastle upon Tyne, 1.

WEST SURREY.—Assistant Solicitor required. Recently admitted man considered. Old-established practice, conveyancing court work.—Good salary for right man.—Box 6353, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG Solicitor required for London Suburban Conveyancing practice—must be hard worker and capable of acting independently—good prospects of partnership.—Box 6354, Solicitors' Journal, Oyez House, Breams Buildings, E.C.4.

CONVEYANCING Managing Clerk, admitted or unadmitted, required for London South West Suburb—good prospects for advancement for keen and hard worker—please state age, experience and salary required.—Box 6355, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REQUIRED as soon as possible Junior Unadmitted Conveyancing Clerk and Probate Clerk. Assistance with accommodation can be given.—Reply stating age, experience and salary required to John Hodge & Co., 27/31 Boulevard, Weston-super-Mare.

OLD-ESTABLISHED Manchester Solicitors require admitted or unadmitted Conveyancing Assistant. Responsible position with good prospects.—Box 6357, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

JUNIOR Litigation Clerk required by West End solicitors; 5-day week; good prospects.—Write stating salary required and experience.—Box 6364, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT SOLICITOR

recently admitted required for expanding LEGAL DEPARTMENT OF MAJOR COMPANY IN ELECTRICAL INDUSTRY. Age limit about 28. Practical conveyancing and some common law (not necessarily litigious) essential. Company or commercial experience desirable. Good salary. Pension scheme. Opportunity for adaptable man with administrative ability.—Box 6369, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

continued from p. xx

APPOINTMENTS VACANT—*continued*

ASSISTANT required, admitted or unadmitted, male or female; mainly conveyancing.—Norman Lipman & Co., 51 South Molton Street, W.1. MAY 6720/5208.

COUNTRY Town, Midlands.—Assistant Solicitor required to take charge of Court work; good salary; prospects.—Box 6362, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROGRESSIVE Midlands firm require Assistant Solicitor. Definite prospects of replacing outgoing Partner for right man. Competence and character more important than capital. Chiefly conveyancing and probate. Should be able to work without supervision. Good salary for right applicant.—Full details to Box 6363, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

DEBT Collection Clerk required (male or female) by West End solicitors; 5-day week; good prospects. Write stating salary required and experience.—Box 6365, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY firm require additional assistant (admitted or unadmitted) in company department, to work with and assist a partner. Applicants, preferably under 40, should have a high standard of ability, a good knowledge and experience of subject and able to handle a volume of work under pressure; commencing salary up to £1,600, according to age and experience, with good prospects of advancement. Write with full details of education and history to Box 6366, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY firm require additional assistant to work with and assist a partner, mainly on the commercial side. Applicants, who may be newly admitted, should have a good conveyancing background; plenty of scope for man of ability and initiative. Apply giving full details of education and experience to Box 6367, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

EXPERIENCED Legal Copy Typist (widow) specialising in Conveyancing, wishes to obtain work at home. Moderate charges. Good quality work guaranteed. Please help.—Box 6317, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG man requires work in London Solicitor's office. Experienced in Conveyancing, Probate, Wills and County Court work.—Please write Box 6358, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

HOME-BOUND Stenorette typist, own machine, seeks home work. Fourteen years' legal experience.—Box 6361, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICES AND PARTNERSHIPS

SUCCESSIONS in Dorset, Cornwall and London.—Apply Hooper & Son, 5 Chichester House, Chancery Lane, W.C.2.

CITY practice, mainly litigation and commercial, for disposal on retirement of sole partner. Substantial net profits.—Box 6368, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MORTGAGES REQUIRED

PRIVATE First Mortgage of £7,500 required on a block of five flats in Hampstead at 6%. Applicant will pay procuration fee of 2%. Value of security £12,000.—Write Box 6359, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MORTGAGE FUNDS

As Financial Consultants we specialise in obtaining, on short or long terms mortgages, re-mortgages and second mortgages from £500 up to £2,000,000

Enquiries welcomed without obligation

CITY & COMMERCIAL MORTGAGE COMPANY, LIMITED
Finance House, 136/137 Shoreditch High St. London, E.1
Shoreditch 4908

WE offer a specialised service re mortgage advances on Shop Properties, Factories and Houses over £10,000. Sums also available for Building and Industrial development.—MILLER SMITH AND PARTNERS, Phoenix House, 19/23 Oxford Street, W.1. Tel.: Gerrard 1394.

PROPERTY INVESTMENTS

INVESTMENTS REQUIRED

ACTIVE enquiries in hand for good-class shop investments, blocks of flats, freehold ground rents and weekly investments of all types.—Details in confidence to Cowdrey, Phipps & Hollis, F.A.L.P.A., Investment Department, 360 Neasden Lane, London, N.W.10. (Dollis Hill 6671/3.)

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LAND WANTED for housing. Home Counties. 2/50 acres. Agents retained and reinstructed. Planning applications and appeals undertaken.—TRUE BOND HOMES, LTD., 342 Richmond Road, East Twickenham (POP 6231).

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